

PART FOUR. THE FRAMEWORK FOR EFFECTIVE COASTAL AND MARINE SPATIAL PLANNING

I. Introduction

Coastal and marine spatial planning is one of the nine priority objectives in the recommendations. This framework for CMSP in the United States provides a definition of CMSP, identifies the reasons for engaging in CMSP, and describes its geographic scope. It articulates national CMSP goals and guiding principles that would be adhered to in CMSP efforts and the eventual development and implementation of coastal and marine spatial plans. In addition, this framework describes how CMSP and CMS Plans would be regional in scope and developed cooperatively among Federal, State, tribal, local authorities, and regional governance structures, with substantial stakeholder and public input.

II. What is Coastal and Marine Spatial Planning?

CMSP is 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. CMSP identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet economic, environmental,



security, and social objectives. In practical terms, CMSP provides a public policy process for society to better determine how the ocean, coasts, and Great Lakes are sustainably used and protected - now and for future generations.

III. Why Coastal and Marine Spatial Planning?

The Nation’s interests in the ocean, our coasts, and the Great Lakes support a growing number of significant and often competing uses and activities, including commercial, recreational, cultural, energy, scientific, conservation, and homeland and national security activities. Combined, these activities profoundly influence and benefit coastal, regional, and national economies and cultures. However, human uses of our ocean, coasts, and the Great Lakes are expanding at a rate that challenges our ability to plan and manage them under the current sector-by-sector approach. While many existing permitting processes include aspects of cross-sectoral planning (through, for example, the process governed by the National Environmental Policy Act), most focus solely on a limited range of management tools and outcomes (e.g., oil and gas leases, fishery management plans, and marine protected areas). Missing from this picture is a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing these uses and activities. This new approach would be national in scope to address national interests, but also scalable and specific to regional and local needs. Without such an improved approach, we risk an increase in user conflicts, continued planning and regulatory inefficiencies with their associated costs and delays, and the potential loss of critical economic, ecosystem, social, and cultural services for present and future generations.

Recent scientific and ocean policy assessments have demonstrated that a fundamental change in our current management system is required to achieve the long-term health of our ocean, coasts, and Great Lakes in order to sustain the services and benefits they provide to society. The present way we

Traditional, New, and Expanding Ocean, Coastal, And Great Lakes Uses

The ocean, our coasts, and the Great Lakes are home to and support myriad important human uses. CMSP provides an effective process to better manage a range of social, economic, and cultural uses, including:

- Aquaculture (fish, shellfish, and seaweed farming)
- Commerce and Transportation (e.g., cargo and cruise ships, tankers, and ferries)
- Commercial Fishing
- Environmental/Conservation (e.g., marine sanctuaries, reserves, national parks, and wildlife refuges)
- Maritime Heritage and Archeology
- Mining (e.g., sand and gravel)
- Oil and Gas Exploration and Development
- Ports and Harbors
- Recreational Fishing
- Renewable Energy (e.g., wind, wave, tidal, current, and thermal)
- Other Recreation (e.g., boating, beach access, swimming, surfing, nature and whale watching, and diving)
- Scientific Research and Exploration
- Security, Emergency Response, and Military Readiness Activities
- Subsistence Uses
- Tourism
- Traditional Hunting, Fishing, and Gathering
- Working Waterfronts

manage these areas cannot properly account for cumulative effects, sustaining multiple ecosystem services, and holistically and explicitly evaluating the tradeoffs associated with proposed alternative human uses.

Scientific understanding and information are central to achieving an integrated and transparent planning process. Natural and social sciences can inform decisions about how to achieve societal objectives from the Nation's ocean, coastal, and Great Lakes waters, both now and into the future, while maintaining ecosystem integrity. Built on this foundation of sound science, this new system for planning should facilitate maintenance of essential ecosystem services, encourage compatible uses, minimize conflicts, evaluate tradeoffs in an open and transparent manner, and include significant and meaningful stakeholder involvement.

The Benefits of CMSP

As recommended in this framework, CMSP is intended to yield substantial economic, ecological, and social benefits. To do so, it must fully incorporate the principles of sound science for ecosystem-based and adaptive management, be transparent, and be informed by stakeholders and the public. Many have raised concerns regarding whether CMSP would result in additional layers of regulatory review or delays in decision-making. To the contrary, CMSP is intended to build upon and significantly improve existing Federal, State, tribal, local, and regional decision-making and planning processes. Thus, while the development of CMSP would require significant initial investments of both human and financial resources, these investments are expected to result in substantial benefits. Several States, regions, and other nations have already recognized the many advantages of marine spatial planning, undertaken the planning process, and are eager to take positive steps to realize those advantages.

CMSP can facilitate sustainable economic growth. For instance:

In the Netherlands-

A “preferred sand mining area” has been identified within its territorial sea. This use allocation through marine spatial planning will allow sand extraction closer to shore at less cost to both the private sector and the government, especially in the next 20 years when it is used for coastal adaptation to anticipated climate change.

In Germany-

An environmental assessment for a wind farm permit costs about €1 million (US\$1.5 million) to prepare. Because the federal government has already prepared a Strategic Environmental Assessment for its marine spatial plan that includes priority areas for wind farms, costs of preparing and reviewing an environmental assessment for every permit proposed in a “Priority Wind Farm Area” will be reduced or avoided.

Examples Courtesy of Dr. Charles Ehler, UNESCO

CMSP is intended to facilitate sustainable economic growth in coastal communities by providing transparency and predictability for economic investments in coastal, marine, and Great Lakes industries, transportation, public infrastructure, and related businesses. CMSP could promote national objectives such as enhanced national energy security and trade and provide specific economic incentives (e.g., cost savings and more predictable and faster project implementation) for commercial users.

CMSP is intended to improve ecosystem health and services by planning human uses in concert with the conservation of important ecological areas, such as areas of high productivity and biological diversity; areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding, and feeding; areas of rare or functionally vulnerable marine resources; and migratory corridors. Enhanced ecosystem services and benefits can be attained through CMSP because they are centrally incorporated into the CMS Plan as desired outcomes of the process and not just evaluated in the context of individual Federal or State agency action. CMSP allows for a comprehensive look at multiple sector demands which would provide a more complete evaluation of cumulative effects. This ultimately is intended to result in protection of areas that are essential for the resiliency and maintenance of healthy ecosystem services and biological diversity, and to maximize the ability of marine resources to continue to support a wide variety of human uses.

CMSP allows proactive planning to integrate a wide range of ecosystem services. For instance:

Provisioning

Energy, Seafood, Biomedical

Regulating and Supporting

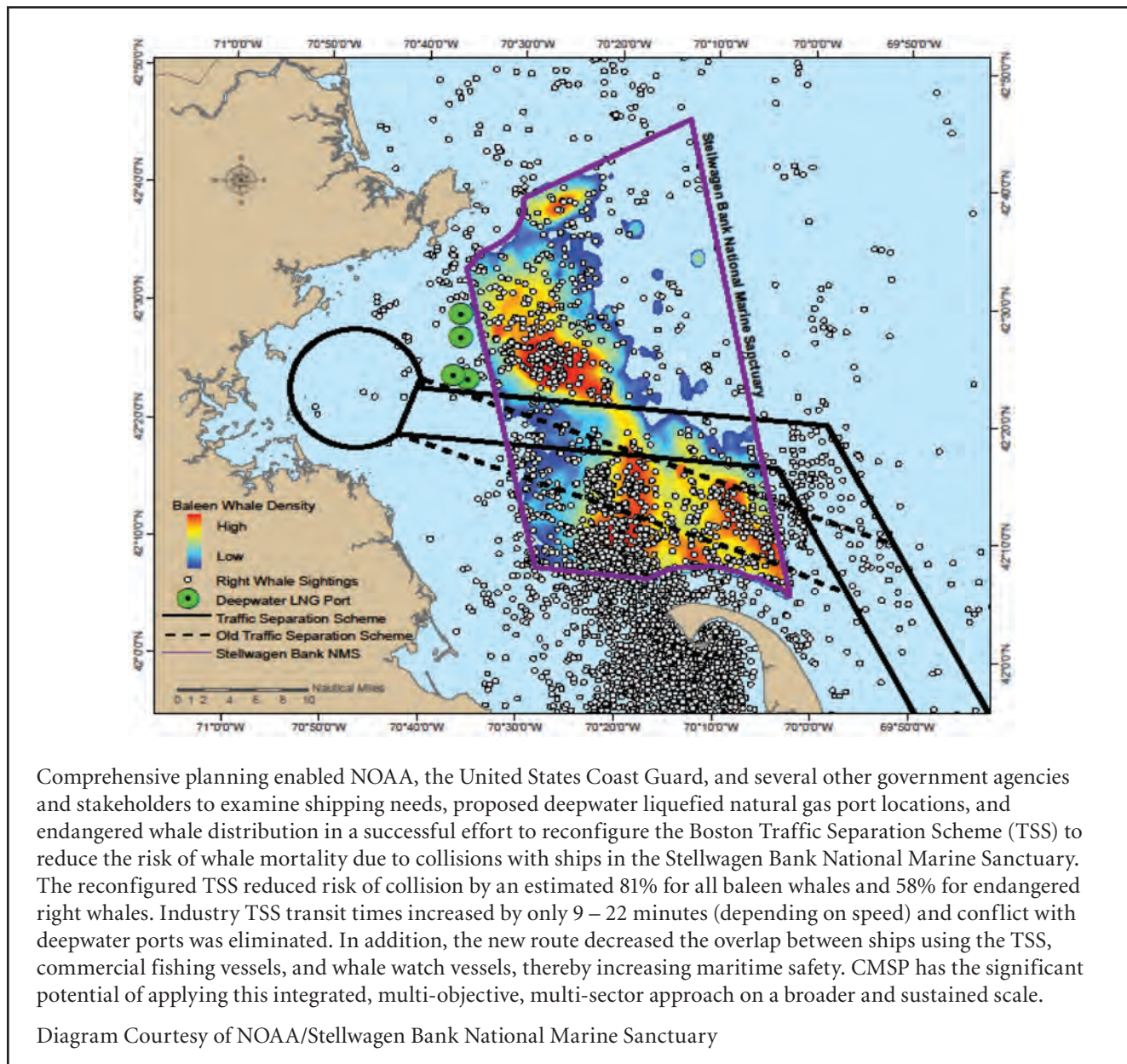
Flood Prevention, Biological Diversity Maintenance, Climate Regulation, Erosion Control, Control of Pests and Pathogens, Nutrient Recycling, and Primary Production

Cultural Services

Education, Recreational, Heritage, and Spiritual



Example of the Potential Benefits of CMSP: Stellwagen Bank National Marine Sanctuary



From a societal perspective, CMSP would improve opportunities for community and citizen participation in open planning processes that would determine the future of the ocean, our coasts, and the Great Lakes. For example, the CMSP process would recognize the social, economic, public health, and conservation benefits of sustainable recreational use of ocean, coastal, and Great Lakes resources (e.g., fishing, boating, swimming, and diving), by providing improved coordination with recreational users to ensure consideration of continued access and opportunities to experience and enjoy these activities consistent with safety and conservation goals. Integrated engagement and coordination should result in stronger and more diverse ocean, coastal, and Great Lakes stewardship, economies, and communities. Moreover, CMSP can assist managers in planning activities to sustain cultural and recreational uses, human health and safety, and the continued security of the United States. For

instance, CMSP would help to ensure that planning areas identified as important for public use and recreation are not subject to increased risk of harmful algal blooms, infectious disease agents, chemical pollution, or unsustainable growth of industrial uses.

IV. Integration, Cooperation, and Coordination

Strong partnerships among Federal, State, tribal, and local authorities, and regional governance structures would be essential to a truly forward-looking, comprehensive CMSP effort. One of the significant benefits of CMSP is to improve the ability of these authorities to seamlessly coordinate their objectives with broader planning efforts by participating in the CMSP process for areas within and beyond their jurisdictional waters. Many States and regional governance structures have already engaged in some form of comprehensive marine planning and CMSP would build upon and incorporate these efforts. Also, the United States has a unique legal relationship with federally-recognized American Indian and Alaska Native tribal governments. These tribal governments, and the indigenous populations in Hawaii and the United States Commonwealths and Territories, are integrally linked to the maritime realm and would play an important role in CMSP.

The United States shares maritime and Great Lakes boundaries with a number of countries and has the world's largest EEZ and an extensive Continental Shelf. The development of CMSP provides opportunities for engagement with other countries, in coordination with the Department of State and other relevant agencies. The views and decisions of relevant international fora should be taken into account, where appropriate, in CMSP and the development of CMS Plans.

The ability for States and tribes to participate in the CMSP process for areas within and beyond their respective jurisdictions can afford the following potential opportunities and incentives:

- Encourage and inform the Federal government to better manage resources or address processes that transcend jurisdictional boundaries;
- Define local and regional objectives and develop and implement CMSP in a way that is meaningful to regionally specific concerns;
- Leverage, strengthen, and magnify local planning objectives through integration with regional and national planning efforts;
- Proactively address concerns over proposed activities impacting State and tribal interests and minimize use conflicts before they escalate;
- Leverage support from the Federal government to build CMSP capacity, access CMSP data, and acquire scientific, technical, and financial assistance;
- Access data through CMSP portal(s) and utilize science tools developed, established, and maintained for CMSP efforts;
- Benefit from sustained Federal participation on the regional planning bodies that consist of representatives empowered to make decisions and commitments on behalf of their respective agencies, in turn helping to integrate and improve decision-making;
- Provide a clearer and easier point of access for all Federal agencies with regard to ocean, coastal, and Great Lakes issues; and
- Achieve regulatory efficiencies, reduction in administrative delays, and cost savings.

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Similarly, as the United States is a leader in various international fora that deal with marine issues, the United States should introduce relevant aspects of CMSP for consideration by such bodies.

V. Public and Stakeholder Engagement

In addition to coordination and cooperation among all levels of government, robust public and stakeholder engagement is integral to a successful CMSP process. Given the multi-objective nature of CMSP it is critical to ensure there are numerous opportunities for a broad range of input to gain a better understanding of the human uses and influences on the planning area, and expectations, interests, and requirements for the future. Including a broad range of interests throughout the planning and implementation of CMSP is necessary to strengthen mutual and shared understanding about relevant problems and opportunities and will better inform the process and its outcomes.

VI. The Authority for Coastal and Marine Spatial Planning

Federal statutes often include authorizing language that explicitly gives agencies the responsibility to plan and implement the objectives of the statutes. Moreover, several Federal statutes specifically authorize agency planning with respect to the ocean, coastal, and Great Lakes environments. Federal agencies and departments also administer a range of statutes and authorized programs that provide a legal basis to implement CMSP. These statutory and regulatory authorities may govern the process for making decisions (e.g., through Administrative Procedure Act rulemaking and adjudications) and not just the ultimate decisions made. The processes and decision-making CMSP envisions would be carried out consistent with and under the authority of these statutes. State, tribal, and local authorities also have a range of existing authorities to implement CMSP, although this will vary among and within regions. This framework for CMSP is to provide all agencies with agreed upon principles and goals to guide their actions under these authorities, and to develop mechanisms so that Federal, State, tribal, and local authorities, and regional governance structures can proactively and cooperatively work together to exercise their respective authorities.

An agency or department's capacity to internalize the elements of any particular CMS Plan would vary depending on the nature of applicable statutes. CMSP is intended to provide a better framework for application of these existing laws and agency authorities, but is not intended to supersede them. Where pre-existing legal constraints, either procedural or substantive, are identified for any Federal agency, the NOC would work with the agency to evaluate necessary and appropriate legislative solutions or changes to regulations to address the constraints. In the interim, agencies would comply with existing legal requirements but should endeavor, to the maximum extent possible, to integrate their actions with those of other partners to a CMS Plan.

VII. The National Goals of Coastal and Marine Spatial Planning

For CMSP to be successful, it must be based on clear, broad-based goals that define the desired outcomes to be achieved. CMSP in the United States would be developed and implemented to further the following goals:

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1. 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;
2. 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;
3. Provide for and maintain public access to the ocean, coasts, and 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, coastal, and Great Lakes uses; and
7. Enhance interagency, intergovernmental, and international communication and collaboration.

VIII. The National Guiding Principles for Coastal and Marine Spatial Planning

In order to achieve the national goals of CMSP, planning efforts are to be guided by the following principles:

1. CMSP would use an ecosystem-based management approach that addresses cumulative effects to ensure the protection, integrity, maintenance, resilience, and restoration of ocean, coastal, and Great Lakes ecosystems, while promoting multiple sustainable uses.
2. Multiple existing uses (e.g., commercial fishing, recreational fishing and boating, subsistence uses, marine transportation, sand and gravel mining, and oil and gas operations) and emerging uses (e.g., off-shore renewable energy and aquaculture) would be managed in a manner that reduces conflict, enhances compatibility among uses and with sustained ecosystem functions and services, provides for public access, and increases certainty and predictability for economic investments.
3. CMSP development and implementation would ensure frequent and transparent broad-based, inclusive engagement of partners, the public, and stakeholders, including with those most impacted (or potentially impacted) by the planning process and with underserved communities.
4. CMSP would take into account and build upon the existing marine spatial planning efforts at the regional, State, tribal, and local level.
5. CMS Plans and the standards and methods used to evaluate alternatives, tradeoffs, cumulative effects, and sustainable uses in the planning process would be based on clearly stated objectives.
6. Development, implementation, and evaluation of CMS Plans would be informed by

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sound science and the best available information, including the natural and social sciences, and relevant local and traditional knowledge.

7. CMSP would be guided by the precautionary approach as reflected in Principle 15 of the Rio Declaration, “Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”
8. CMSP would be adaptive and flexible to accommodate changing environmental conditions and impacts, including those associated with global climate change, sea-level rise, and ocean acidification; and new and emerging uses, advances in science and technology, and policy changes.
9. CMSP objectives and progress toward those objectives would be evaluated in a regular and systematic manner, with public input, and adapted to ensure that the desired environmental, economic, and societal outcomes are achieved.
10. The development of CMS Plans would be coordinated and compatible with homeland and national security interests, energy needs, foreign policy interests, emergency response and preparedness plans and frameworks, and other national strategies, including the flexibility to meet current and future needs.
11. CMS Plans would be implemented in accordance with customary international law, including as reflected in the Law of the Sea Convention, and with treaties and other international agreements to which the U.S. is a party.
12. CMS Plans would be implemented in accordance with applicable Federal and State laws, regulations, and Executive Orders.

IX. Geographic Scope of Coastal and Marine Spatial Planning

The geographic scope of the planning area for CMSP in the United States includes the territorial sea, the EEZ, and the Continental Shelf. The geographic scope of the planning area would extend landward to the mean high-water line. The geographic scope for the Great Lakes would extend from the ordinary high-water mark and include the lakebed, subsoil, and water column to the limit of the United States and Canada international boundary, as maintained by the International Boundary Commission, and includes Lake St. Clair and the connecting channels between lakes. Privately owned lands as defined by law would be excluded from the geographic scope.

The geographic scope would include inland bays and estuaries in both coastal and Great Lakes settings. Inclusion of inland bays and estuaries is essential because of the significant ecological, social, and economic linkages between these areas with offshore areas. Additional inland areas may be included in the planning area as the regional planning bodies, described in Section X of this Part, deem appropriate. Regardless, consideration of inland activities would be necessary to account for the significant interaction between upstream activities and ocean, coastal, and Great Lakes uses and ecosystem health. Likewise, consideration would also be given to activities occurring beyond the EEZ and continental shelf that may influence resources or activities within the planning area.

The Great Lakes and CMSP

Great Lakes resources are governed in part by a body of law, treaties, and regional policy that is distinct from our ocean and other coastal areas. Of paramount significance is the Great Lakes Water Quality Agreement (GLWQA) with Canada and its implementation under various Federal laws that commit each country to restore and maintain the chemical, physical, and biological integrity of the Great Lakes through use of ecosystem-based management. However, while various Federal regulatory authorities apply in the United States Great Lakes, the submerged lands underlying them are largely under the jurisdiction and ownership of the Great Lakes States.



CMSP efforts in the Great Lakes would be complementary to and closely coordinated with the GLWQA and other Great Lakes initiatives and authorities, such as the President's Great Lakes Restoration Initiative and Executive Order 13340, which established a cabinet-level Great Lakes Interagency Task Force, its Regional Working Group, and a multi-stakeholder Great Lakes Regional Collaboration.

Land-based Activities and Their Relation to CMSP

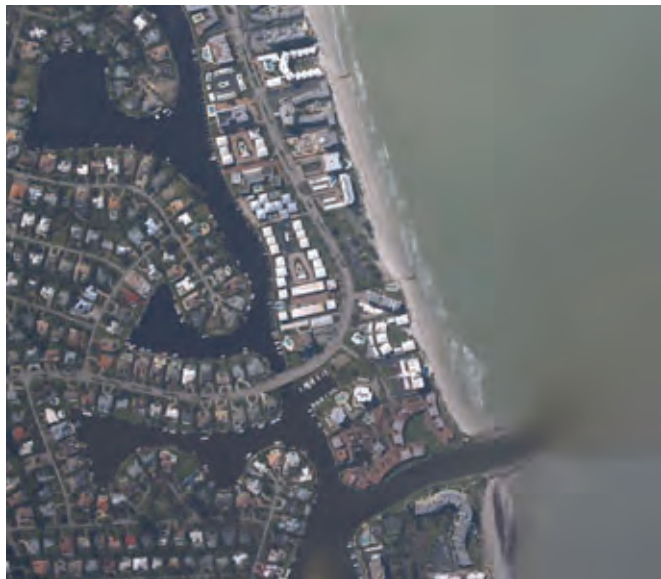
Although the geographic scope of the CMSP area in the United States would not include upland areas unless a regional planning body determines to include them, the health and well-being of the ocean, our coasts, and the Great Lakes are in large part the result of the interrelationships among land, water, air, and human activities. Effective management of environmental health and services, maritime economies, commerce, national and homeland security interests, and public access necessitate connecting land-based planning efforts with ocean, coastal, and Great Lakes planning. Thus, successful implementation of CMSP would ultimately depend upon a better integration of coastal planning that considers influences from, and activities within, coastal watersheds and other contributing land areas. Land-based watershed planning efforts (e.g., components of the Great Lakes Restoration Initiative Action Plan) should inform and influence CMSP within each region. Similarly, ocean, coastal, and Great Lakes activities that affect land-based ecosystems should be considered and accounted for during CMSP efforts using the existing State and Federal programs including the Coastal Zone Management Act (CZMA), Clean Water Act, Clean Air Act, and other relevant authorities. It is the intent of the CMSP process to better understand how current mandates and programs interact towards the common goals of CMSP and, in doing so, to better coordinate, and where appropriate, strengthen their collective

benefits. In addition, watershed monitoring, terrestrial observation activities, and ocean, coastal, and Great Lakes observation systems should be linked to provide the necessary information on interactions and impacts across the land-sea boundary.

X. Development and Implementation of Coastal and Marine Spatial Planning

CMSP would be developed and implemented using a regional approach to allow for the variability of economic, environmental, and social aspects among different areas of the United States. This section describes the regional approach, recommended steps, and the essential elements to be included in the development and implementation of CMSP.

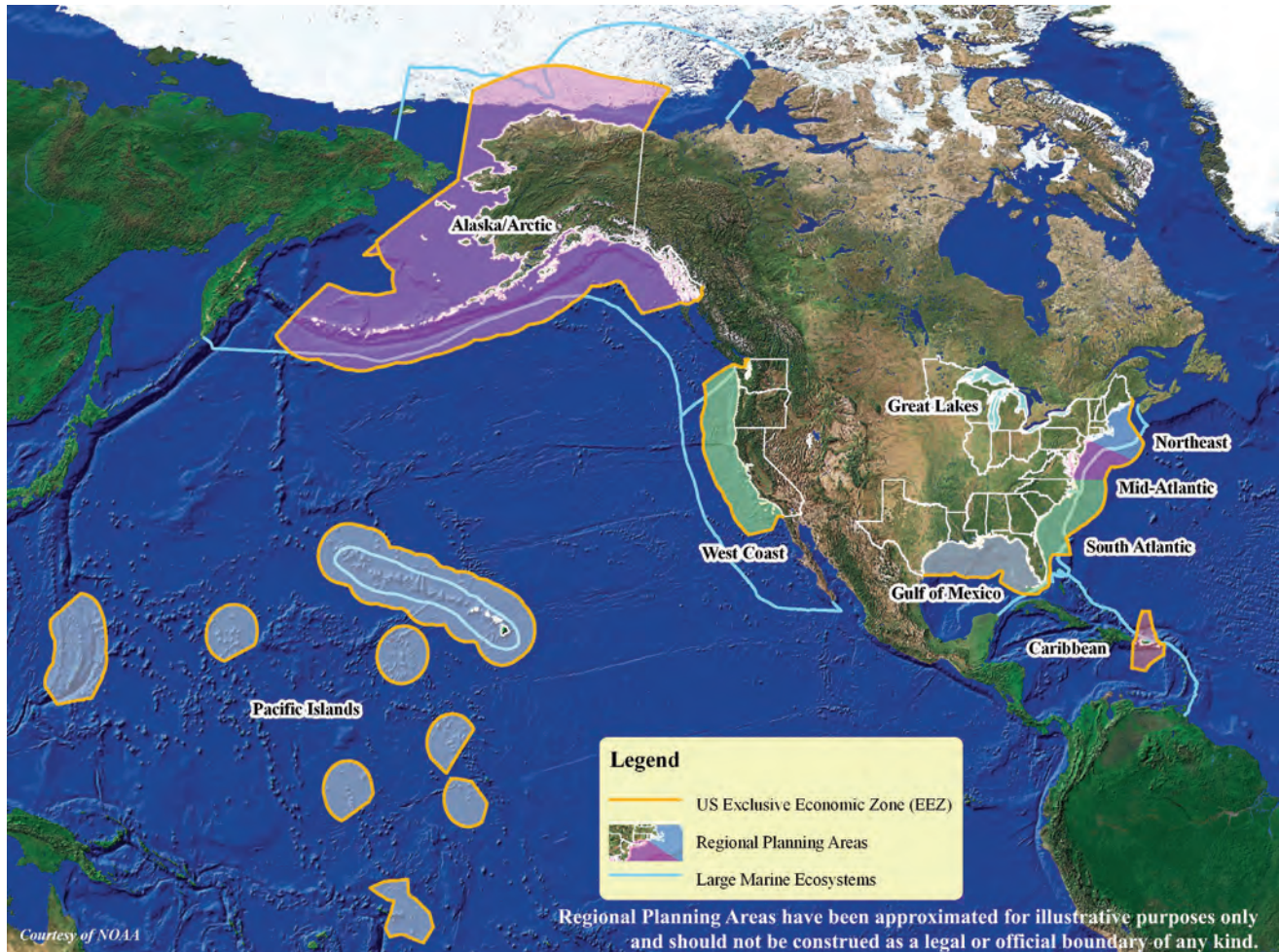
Given the importance of conducting CMSP from an ecosystem-based perspective, combined with the likely involvement of existing regional governance structures in developing plans, a consistent planning scale with which to initiate



CMSP is at the large marine ecosystem (LME) scale.⁷ These recognized LMEs were defined on the basis of consistent ecological conditions and other factors. Overall, the boundaries of regional governance structures for the Northeast, Mid-Atlantic, South Atlantic, Gulf Coast, and West Coast lie within LME boundaries. This regional approach, consistent with the LMEs, would also be applied to the Great Lakes, Alaska, the Pacific Islands, and the Caribbean. Therefore, for CMSP purposes, the United States would be subdivided into nine regional planning areas based on LMEs, with modifications as necessary to ensure inclusion of the entire U.S. EEZ and Continental Shelf and to allow for incorporation of existing state or regional ocean governance bodies. The NOC would facilitate the development of regional CMS Plans for those areas.

⁷ The U.S. ocean and coastal waters hold all or parts of eleven LMEs: the West Bering Sea, East Bering Sea, Chukchi Sea, Beaufort Sea, Gulf of Alaska, California Current, Gulf of Mexico, Southeast U.S. Continental Shelf, Northeast U.S. Continental Shelf, Insular Pacific-Hawaiian, and the Caribbean Sea. For representational purposes only, the five Alaskan LMEs are depicted as a single complex in the map on page 52. Although, as a large fresh-water system, the Great Lakes are not usually considered an LME, they do represent a large regional ecosystem of similar scale and are considered as such for this framework. Further detail on LMEs can be found at: <http://www.lme.noaa.gov>.

Large Marine Ecosystems and Regional Planning Areas



Regional Planning Body

The NOC would work with the States⁸ and federally-recognized tribes, including Alaska Native Villages, to create regional planning bodies – coinciding with the regional planning areas – for the development of regional CMS Plans. The membership of each of the nine regional planning bodies would consist of Federal, State, and tribal authorities relevant to CMSP for that region (e.g., resource management, including coastal zone management and fisheries management, science, homeland and national security, transportation, and public health). Members would be of an appropriate level of responsibility within their respective governing body to be able to make decisions and commitments throughout the process. Each regional planning body would identify Federal and non-Federal co-leads.⁹ Appropriate State and tribal representation would be determined by applicable States and tribes, consistent with the types of representation described by the NOC per Section XVI of this Part. Regional planning bodies would develop a mechanism to engage other indigenous community representatives

⁸ For purposes of this framework, “States” also include the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

⁹ Each regional planning body would have one Federal co-lead, one State co-lead, and, as appropriate, one tribal co-lead. The co-leads would be responsible for guiding and facilitating the timely progress of the CMSP process, but would not have final decision-making authority.

with jurisdictional responsibilities or interests relevant to CMSP, as well as coordinate with appropriate local authorities throughout the CMSP process. In addition, the regional planning bodies would provide a formal mechanism for consultation with the Regional Fishery Management Councils (RFMCs) across their respective regions on fishery related issues given their unique statutory responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and quasi-regulatory role in fisheries management.¹⁰ The NOC would prepare guidance for regional planning bodies in meeting these consultative process requirements in order to ensure consistency across regions. In the future, if other statutorily-mandated or quasi-regulatory groups are identified, the NOC would determine whether a formal mechanism for consultation should be developed for such groups and, if necessary, provide guidance for regional planning bodies on the development of such a process.

Each regional planning body¹¹ should make every effort to ensure representation from all States within a region, ideally through, or as part of, the existing regional governance structures created by or including the States to address cross-cutting issues, including regional planning. Given that activities that happen outside of the planning area of each regional planning body may affect CMSP decisions in that area, ex officio membership on these bodies could be extended to adjacent coastal States to help integrate and enhance consistency among regions. Inland States may also be afforded membership, as determined appropriate by the regional planning body. It is also recognized that the United States shares maritime boundaries with other nations (e.g., Canada and Mexico) and the regional planning bodies for those respective areas may include ex officio representatives or observers from these nations.

Nine Proposed Regional Planning Areas and Corresponding Minimum State Representation

1. **Alaska /Arctic Region:** Alaska
2. **Caribbean Region:** Puerto Rico and U.S Virgin Islands
3. **Great Lakes Region:** Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin
4. **Gulf of Mexico Region:** Alabama, Florida, Louisiana, Mississippi, and Texas
5. **Mid-Atlantic Region:** Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia
6. **Northeast Region:** Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
7. **Pacific Islands Region:** Hawaii, Commonwealth of the Northern Mariana Islands, American Samoa, and Guam
8. **South Atlantic Region:** Florida, Georgia, North Carolina, and South Carolina
9. **West Coast Region:** California, Oregon, and Washington

¹⁰ There are no Regional Fishery Management Councils in the Great Lakes Region, but the Great Lakes regional planning body should work with the Great Lakes Fishery Commission and other relevant entities, as appropriate.

¹¹ The Task Force based the State membership of the nine regional planning areas in part on the membership of the existing regional governance structures, where they exist, with the following one exception: Pennsylvania was added to the Mid-Atlantic Region, in addition to the Great Lakes Region, because Pennsylvania has a coastline on the Delaware River that would, under the defined geographic scope, be included in the CMSP regional planning area.

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Furthermore, there would be flexibility to develop sub-regional plans provided that these plans are encompassed in an overarching regional CMS Plan and overseen by the regional planning body. This construct may be particularly useful in the Alaska/Arctic and Pacific Islands Regions given the geographic breadth, the logistical constraints of coordinating resources across a region that spans the international dateline, and that multiple LMEs are encompassed by the Alaska/Arctic Region.

CMSP Development Agreement

The members of each regional planning body (the “partners”) would prepare and execute a CMSP Development Agreement, a model of which the NOC would develop as described in Section XVI of this Part. The Development Agreement would be an express commitment to work cooperatively to engage in CMSP and develop eventual CMS Plans, identify the regional planning body members for each of the partners, and define ground rules, roles, and responsibilities of the partners.

Dispute Resolution Process

CMSP would provide a process for resolving conflicts should members of the regional planning bodies disagree during the development or modification of CMS Plans and in the interpretation of NOC-certified CMS Plans. The NOC would develop this process, in cooperation with the GCC, to ensure consistency from region to region. This process would be designed in a way to ensure that most disputes would be resolved at the regional level. If a conflict cannot be resolved at the regional level, the regional planning body leads would elevate the issue to the NOC for resolution, via the NOC resolution process outlined earlier. In those instances in which such a conflict reflects a dispute between Federal and non-Federal members at the regional level, the NOC would consult with the GCC as part of this process. Disputes regarding a specific agency’s decisions pursuant to its statutory authority would be addressed through the various procedures and mechanisms available under that authority or other relevant authorities (e.g., Administrative Procedure Act).

Work Plan

Each regional planning body would develop a formal regional work plan that describes the agreed-upon process for CMSP and development of CMS Plans (including all essential elements), specifies members, identifies co-leads, establishes key milestones, identifies resources, specifies time frames, and addresses the essential elements required for the planning process, as defined below. The work plan would allow flexibility to account for the particular circumstances of a given region (e.g., if a region has existing State plans). In addition, each work plan would specify a formal mechanism for consultation to engage the RFMCs within the region as well as a mechanism to engage the indigenous community representatives. The work plan should also describe how the regional planning body would coordinate with appropriate local authorities. The NOC would review and approve each regional work plan prior to its implementation.

Essential Elements of the CMSP Process

Essential Elements of the CMSP Process

- Identify Regional Objectives
- Identify Existing Efforts that Should Help Shape the Plan throughout the Process
- Engage Stakeholders and the Public at Key Points throughout the Process
- Consult Scientists and Technical and Other Experts
- Analyze Data, Uses, Services, and Impacts
- Develop and Evaluate Alternative Future Spatial Management Scenarios and Tradeoffs
- Prepare and Release for Public Comment a Draft CMS Plan with Supporting Environmental Impact Analysis Documentation
- Create a Final CMS Plan and Submit for NOC Review
- Implement, Monitor, Evaluate, and Modify (as needed) the NOC-certified CMS Plan

The CMSP process consists of a series of steps that would eventually lead to the development of a comprehensive, multi-sectoral, and multi-objective CMS Plan. Although the CMSP process envisions optimum flexibility among and within regions, the following essential elements – and how the partners plan to accomplish them – would need to be addressed in the work plan in order to ensure a level of national consistency across regions. The process would be adaptive and refined as regions gain experience with CMSP.

- **Identify Regional Objectives:** Each region would define and agree upon a set of specific and measurable regional objectives that provide clear direction, outcomes, and timeframes for completion. These regional objectives would be consistent with the national goals and principles identified in this framework and with any national objectives the NOC has articulated for purposes of CMSP. These objectives would serve as a statement of purpose and need for action to guide the planning process and eventual development of an ecosystem-based, comprehensive, integrated CMS Plan.
- **Identify Existing Efforts that Should Help Shape the Plan throughout the Process:** The regional planning body would identify existing efforts (e.g., State and Federal ocean plans, data management efforts, and CMSP decision products) that would allow the regional plan to build on existing work. This work should be leveraged and expanded to enable a more



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organic and holistic approach that would advance the region as a whole while not duplicating or hindering existing and ongoing efforts. These existing efforts can include those that are region-wide, State focused, or more site-specific marine spatial plans or efforts (e.g., Great Lakes Restoration Initiative Action Plan, Massachusetts Ocean Plan, Rhode Island Ocean Special Area Management Plan, or National Marine Sanctuary management plans), as well as issue-specific plans that seek to incorporate some aspects of CMSP approaches and principles (e.g., ocean energy and fishery management plans), as appropriate.

- **Engage Stakeholders and the Public at Key Points throughout the Process:** The regional planning body would ensure there is frequent and regular stakeholder engagement throughout all phases of the CMSP process, including development, adoption, implementation, evaluation, and adaptive management phases. To better ensure all concerns and ideas are considered, stakeholder engagement should be emphasized with those most impacted (or potentially impacted) by the planning process. Considerations should also be given to ensuring inclusion of underserved communities. Regions would establish an inclusive and transparent process for stakeholder participation (or, if applicable, utilizing an existing process) that ensures engagement with a representative balance of major social, cultural, economic, environmental, recreational, human health, and security interests. The regional planning body should also identify previous stakeholder input to regional or State CMSP efforts including the existing documentation on their input and needs. Stakeholder and public participation would be sought through a variety of robust participatory mechanisms that may include, but are not limited to, workshops, town halls, public hearings, public comment processes, and other appropriate means. Stakeholder and public engagement would be consistent with existing requirements for public notice and input under applicable laws. Additionally, regional planning bodies would operate with the maximum amount of transparency, participation, and collaboration to the extent permissible by law. The NOC would provide guidance on such operating procedures including methods that ensure effective public and stakeholder participation, encourage diversity of opinions, and contribute to the accountability of the CMSP process (e.g., public meetings, document availability, and timely public notification).
- **Consult Scientists and Technical and Other Experts:** The regional planning body would consult scientists, technical experts, and those with traditional knowledge of or expertise in coastal and marine sciences and other relevant disciplines throughout the process to ensure that CMSP is based on sound science and the best available information. To this end, the regional planning body would establish regional scientific participation and consultation mechanisms to ensure that the regional planning body obtains relevant information. Such consultation could take the form of regional private-public technology and science partnerships. In addition, the regional planning bodies would work with existing science and technical entities, such as the regional ocean observation organizations, and other organizations with relevant physical, biological, ecological, and social science expertise. Scientific participation and consultation mechanisms would provide scientific and technical oversight and support to the regional planning body throughout the CMS Plan development, implementation, and evaluation phases.



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- **Analyze Data, Uses, Services, and Impacts:** With assistance from scientific and technical experts, the regional planning body would investigate, assess, forecast, and analyze the following:



- Important physical and ecological patterns and processes (e.g., basic habitat distributions and critical habitat functions) that occur in the planning area, including their response to changing conditions;
- The ecological condition and relative ecological importance or values of areas within the planning area, including identification of areas of particular ecological importance, using regionally-developed evaluation and prioritization schemes that are consistent with national guidance provided by the NOC;
- The economic and environmental benefits and impacts of ocean, coastal, and Great Lakes uses in the region;
- The relationships and linkages within and among regional ecosystems, including neighboring regions both within and outside the planning area, and the impacts of anticipated human uses on those connections;
- The spatial distribution of, and conflicts and compatibilities among, current and emerging ocean uses in the area;
- Important ecosystem services in the planning area and their vulnerability or resilience to the effects of human uses, natural hazards, and global climate change;
- The contributions of existing placed-based management measures and authorities; and
- Future requirements of existing and emerging ocean, coastal, and Great Lakes uses.

This analysis would form the basis of the Regional Assessment described in the Essential Elements of the CMS Plan below. The regional planning body would identify and leverage existing approaches and efforts to collect information as well as clearly identify where there are gaps in data and information and what assumptions are made in the assessments, forecasts, and analyses to 'compensate' for lack of information and data.

- **Develop and Evaluate Alternative Future Spatial Management Scenarios and Tradeoffs:** The regional planning body would identify a range of alternative future spatial management scenarios based upon the information gathered on current, emerging, and proposed human uses, ecosystem conditions, and ecosystem services. Comparative analyses would assess, forecast, and analyze the tradeoffs and cumulative effects and benefits among multiple human use alternatives. The alternatives and the supporting analyses would provide the basis for a draft CMS Plan.
- **Prepare and Release for Public Comment a Draft CMS Plan with Supporting Environmental Impact Analysis Documentation:** Once a draft CMS plan and supporting environmental impact analyses, including alternatives, are completed, the regional planning body would release it for

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appropriate public review and comment. During the development of a CMS Plan and before formal adoption of a final CMS Plan, regional planning bodies would also have the flexibility to move forward with CMSP efforts and agreements to address ongoing issues and regional coordination. It is recognized that these agreements would likely become part of the final CMS Plan. In drafting the CMS Plan, the regional planning body would resolve disputes using the process developed by the NOC, as discussed above in this Section.

- **Create a Final CMS Plan and Submit for NOC Review:** Based on public review of the draft plan and alternatives, the regional planning body would develop the final CMS Plan and environmental impact analysis that includes elements detailed in the Essential Elements of the Plan. The regional planning body would submit the final CMS Plan to the NOC for national consistency certification, as described in Section XII of this Part. Certification by the NOC would not occur until after release of the final CMS Plan for 30 days of public notice. These CMS Plans are intended to be iterative and are expected to be modified through the adaptive process described below.
- **Implement, Monitor, Evaluate, and Modify (as needed) the NOC-Certified CMS Plan:** The regional planning body would have an ongoing responsibility to monitor and assess the effectiveness of the CMS Plan. The regional planning body would adapt the CMS Plan, as necessary, based on relevant changes in ecological, economic, human health, safety, security, or social conditions and information. During implementation, each region would integrate new data and scientific findings to refine regional objectives and their respective goals. As new technologies are developed to observe and monitor ocean, coastal, and Great Lakes environments and their uses, they would be considered for application in regional CMSP monitoring and evaluation efforts.

Essential Elements of the CMS Plan

Essential Elements of the CMS Plan

- Regional Overview and Scope of Planning Area
- Regulatory Context
- Regional Assessment
- Objectives, Strategies, Methods, and Mechanisms for CMSP
- Compliance Mechanisms
- Monitoring and Evaluation Mechanisms
- Incorporation of the Dispute Resolution Process

CMS Plans are expected to vary from region to region according to the specific needs, capacity, and issues particular to each region. A completed CMS Plan would contain the following essential elements in order to ensure national consistency across regions and certification by the NOC. Scientific data, information, and knowledge, as well as relevant traditional knowledge would underpin each of these essential elements.

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- **Regional Overview and Scope of Planning Area:** The CMS Plan would include a regional overview of the planning area. This overview would include a description of the planning area's ecosystems and their biological, chemical, and physical environments; social, recreational, human health, safety, security, and economic uses; ecological and conservation considerations, including identification of important ecological areas, habitats, flora, and fauna; and other concerns of the region. The overview would describe how the CMS Plan relates to and furthers the National Policy, CMSP national goals and principles, any national objectives developed by the NOC, regional objectives, and other relevant national, regional, State, and other policies. The CMS Plan would also define the geographic scope of the planning area.
- **Regulatory Context:** The CMS Plan would describe the statutes, rules, and regulations relevant to implementing CMSP throughout all levels of government. It would also describe, as appropriate, the principal existing planning processes (e.g., Great Lakes Restoration Initiative Action Plan or State marine spatial plans) that may be relied on or incorporated as part of the regional CMS Plan.
- **Regional Assessment:** The CMS Plan would include a regional assessment, based on environmental, social, economic, and other necessary data and knowledge, describing the existing and predicted future conditions, uses, and characteristics of the ocean, coastal, or Great Lakes areas covered in the CMS Plan. The regional assessment would include: relevant biological, chemical, ecological, physical, cultural, and historical characteristics of the planning area; ecologically important or sensitive species/habitats/ecosystems; and areas of human activities. The assessment would also include an analysis of ecological condition or health and of cumulative risks as well as forecasts and models of cumulative impacts. The regional assessment would explain the information obtained and analyses conducted during the planning process and how they were used to help determine management decisions and plan alternatives.
- **Objectives, Strategies, Methods, and Mechanisms for CMSP:** This section would describe the regional objectives and proposed strategies, methods, and mechanisms for CMSP for the region. It would provide the analysis, evaluation of options, and the basis for the conclusions made in the CMS Plan. It would describe the spatial determinations for conservation and uses, at the appropriate scale, and include any necessary visual representations. The CMS Plan would describe the strategies, methods, and mechanisms for integrated or coordinated decision-making, including addressing use conflicts. The CMS Plan would further describe the continuing processes by which implementation would proceed, including mechanisms to ensure that individual partner and collaborative decision-making are reviewed for consistency with plan priorities and objectives. The CMS Plan would describe continued opportunities for stakeholder and public engagement. It would provide the flexibility needed to accommodate activities and operations in preparation for and response to disasters, emergencies, and similar incidents. The CMS Plan would also consider a regional process for requesting variances and amendments.
- **Compliance Mechanisms:** The CMS Plan would specify mechanisms to enhance coordination and cooperation among decision-makers and promote consistency in each agency's interpretation and application of its respective existing laws and regulations used for implementation and enforcement of CMS Plans.
- **Monitoring and Evaluation Mechanisms:** The CMS Plan would specify the monitoring and evaluation mechanisms, including a reporting mechanism, to be employed to assess the effectiveness of the CMS Plan and identify where and when changes need to be considered. As part of monitoring and evaluation, regional planning bodies would define a clear set of regional performance measures to be used to assess whether or not the region is meeting national and regional objectives and goals.

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Additionally, regional planning bodies would participate in the periodic execution of regional ecosystem assessments to evaluate impacts of management actions from economic, ecological, and social perspectives in order to inform the CMS Plan. Monitoring and evaluation will follow from and build upon the original regional assessment, consistent with national guidance provided by the NOC.

- **Incorporation of the Dispute Resolution Process:** The CMS Plan would incorporate the dispute resolution process, as described in Section X of this Part.

XI. The Nature of the Planning Process and National Ocean Council-Certified Coastal and Marine Spatial Plans

CMSP is intended to provide Federal, State, tribal, and regional bodies, stakeholders, and the public with a meaningful forum within which to develop a plan to better manage multiple sustainable uses, resolve conflicts, and support ecosystem-based management of the ocean, coasts, and Great Lakes in accordance with shared goals, guiding principles, and applicable legal authorities. In this way, regional objectives and national objectives, goals, and guiding principles can be considered in a single, comprehensive, and integrated process. In order to be successful, the outcome of CMSP would have to result in meaningful improvements in the way that Federal, State, tribal, local, and regional bodies, stakeholders, and the public participate in the use and conservation of these areas.

While the goal of this framework is to move toward comprehensive, integrated, flexible, proactive, ecosystem-based CMSP, this would not happen instantaneously. CMSP must be initiated and developed thoughtfully, allowing for time to address the myriad complexities and challenges that would undoubtedly arise as the process moves forward. Moreover, while this framework identifies some of the incentives and benefits for a coordinated Federal, State, tribal, and regional effort and envisions a fully coordinated planning process, there would be substantial flexibility to determine how best to develop and implement CMSP for each particular region. In the event that a particular State or tribe opts not to participate in the development or implementation of a CMS Plan, the development or implementation of the CMS Plan would continue. While this is not optimal because it would not result in a fully integrated CMS Plan, the benefits of coordinated planning among the participating partners warrant its completion.

Development and implementation of CMS Plans would be an iterative process leading to a comprehensive, multi-objective, multi-sectoral plan within the first five years. Since each region may have different drivers and capabilities for CMSP, regions may choose to prioritize initial development and implementation steps. While CMSP should help resolve many use conflicts, it is not realistic to expect that all such conflicts would be resolved. Further, partners might agree not to resolve certain issues in a CMS Plan at a particular time, but rather to acknowledge these issues and indicate how the parties would continue to work on them as part of the iterative CMSP process. Such issues may be resolved as data gaps are filled, new information is developed, or as State or Federal legal authorities are enacted, changed, or updated.



To ensure that CMSP is effective and has a positive overall impact, each partner participating in CMSP would need to commit in good faith to: (1) a cooperative, open, and transparent CMSP process leading to the development and implementation of CMS Plans, acknowledging that each partner may have different authorities and non-discretionary mission objectives that must be fully addressed; (2) ensure that consideration of the National Policy, national CMSP goals, objectives, and principles, and regional CMSP objectives are incorporated into the decision-making process of all the partners consistent with existing statutory, regulatory, and other authorities, and the critical needs of emergency response, and homeland and national security activities; and (3) dispute resolution processes that enable concerns and issues not resolved through the cooperative planning process to be resolved quickly, rationally, and fairly.

Signing onto the CMS Plan would be an express commitment by the partners to act in accordance with the CMS Plan, within the limits of applicable statutory, regulatory, and other authorities, and respecting critical emergency response and homeland and national security needs. Thus, State and Federal regulatory authorities would adhere to, for example, the processes for improved and more efficient permitting, environmental reviews, and other decision-making identified in the CMS Plan to the extent these actions do not conflict with existing legal obligations. State and Federal authorities with programs relevant to the CMS Plan would in a timely manner review and modify programs, as appropriate, to ensure their respective activities, including discretionary spending (e.g., grants and cooperative agreements), adhere to the CMS Plan to the extent possible. State and Federal agencies

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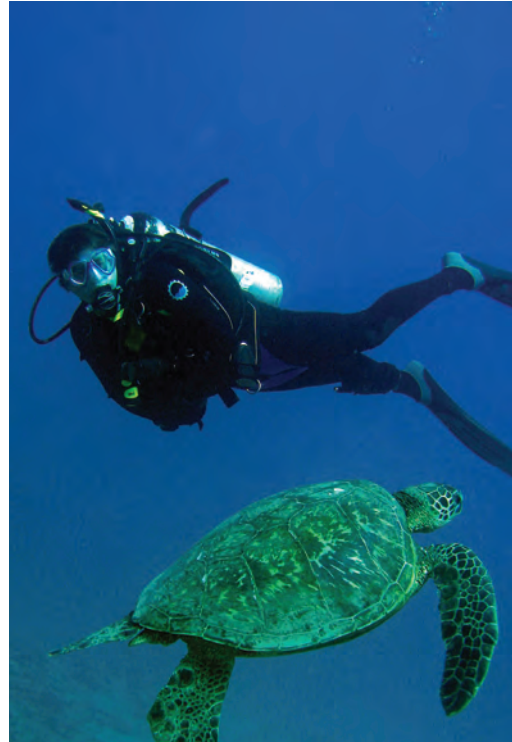
would also be expected to formally incorporate relevant components of the CMS Plan into their ongoing operations or activities consistent with existing law. This may be implemented in a variety of ways. For example, agencies could enter into memoranda of understanding (MOUs) to coordinate or unify permit reviews and decision-making processes. Where existing regulatory or statutory requirements impose constraints on the ability of an agency to fully implement the CMS Plan, the agency would seek, as appropriate, regulatory or legislative changes to fully implement the CMS Plan.

Relationship of CMSP to Existing Authorities

CMSP under this framework would not vest the NOC or regional planning bodies with new or independent legal authority to supersede existing Federal, State, or tribal authorities. Rather, the NOC would facilitate the development of CMSP and provide national context and guidance within which bottom-up, flexible, regionally-based CMS Plans would be developed and implemented. Regional planning bodies would function as convening and planning bodies that comprise Federal, State, and tribal representatives responsible for implementing existing authorities to create a process, and ultimately a plan, to better apply such existing authorities to achieve agreed upon regional goals and objectives.

In and of themselves, CMS Plans, would not be regulatory or necessarily constitute final agency decision-making. However, they are intended to guide agency decision-making and agencies would adhere to the final CMS Plans to the extent possible, consistent with existing authorities, as described in Section XIV of this Part. Adherence to and implementation of the CMS Plan would be the result of a multi-year planning process by which regional planning body members would openly discuss their respective legal authorities, requirements, and processes and how they can be better applied in the CMSP context. Once a CMS Plan is approved, Federal, State, and tribal authorities would implement them through their respective legal authorities. Thus, for example, State permitting decisions remain within the purview and are the responsibility of the relevant State agency, not the NOC, regional planning body, or any of its other members. Also, as described earlier, disputes regarding a specific agency's decisions pursuant to its statutory authority would be addressed through the various procedures and mechanisms available under that authority or other relevant authorities (e.g., Administrative Procedure Act).

One example of the potential relationship between CMSP and existing authorities is the application of CZMA Federal consistency. Since there will be multiple Federal agencies and States involved in any one CMS Plan, the Federal agencies would need to determine how CZMA review would occur as



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Federal agencies adopt the plan. For example, if a State works with the Federal agencies to develop a CMS Plan, the CMS Plan could include measures to ensure that it is consistent to the maximum extent practicable with the enforceable policies of a State's CZMA program. The relevant State could consider potential changes to the State's enforceable policies to achieve agreed upon regional CMSP objectives. Also, a CMS Plan might include CZMA Federal consistency administrative efficiencies so that CZMA review would not be needed for some activities. Finally, if a State incorporates a CMS Plan into its federally approved CZMA program, then it is likely that the CMS Plan would not need a CZMA Federal consistency review.

Relationship of CMSP to Existing Regional Entities

As mentioned above, the regional planning bodies would build upon the efforts of the existing regional governance structures. The regional planning bodies in conjunction with the NOC and the GCC would establish formal mechanisms or consultative processes to engage entities with statutorily-mandated or quasi-regulatory bodies that have an express role in the management and regulation of ocean, coastal, and Great Lakes resources. Specifically, as discussed earlier in Section X, a formal mechanism for consultation with the RFMCs would be incorporated into the CMSP process. In addition, regional planning bodies would coordinate with other existing regional entities and bodies such as Harbor Safety Committees, Regional Aquatic Nuisance Species Panels, and Area Maritime Security Committees, as appropriate.

Relationship of CMSP to Existing Plans and Projects

CMSP is not meant to delay or halt existing or pending plans and projects related to marine and Great Lakes environments or their uses. However, those responsible for making decisions on such plans and projects would be expected to take into account the national CMSP goals and principles, national policies, and any identified national and regional CMSP objectives in future decision-making to the extent possible under existing law. Once a CMS Plan is put into effect following NOC certification, its implementation would be phased in to avoid undue disruption or delay of projects with pending permits or other applications. The NOC would provide additional guidance on how best to accomplish this phased-in approach.

XII National Consistency

Certification by the NOC for National Consistency

The NOC would review each regional CMS Plan to ensure it is consistent with the National Policy, CMSP goals and principles as provided in this framework, any national objectives, performance measures, or guidance the NOC has articulated, and any other relevant national priorities. The NOC's review would ensure that the CMS Plans include all the essential elements described in this framework. The NOC would also consider the CMS Plan's compatibility with an adjacent region's CMS plan regarding issues that cross regional boundaries. Certification by the NOC would not occur until after release of the final CMS Plan for 30 days of public notice. The NOC would review and make a

decision on certification within six months of receipt of the CMS Plan. If a regional CMS Plan does not meet certification requirements, the NOC would work with the regional planning body to address issues with the CMS Plan and could allow for approval of those parts of a CMS Plan that do meet such requirements. Upon certification by the NOC, a decision document adopting the CMS Plan would be co-signed by senior State officials (e.g., Governors), tribal representatives, as appropriate, and senior officials of the Federal agencies represented on the regional planning body. Upon signature by the partners, the CMS Plan would be considered “in effect” and implementation would begin.¹²

National CMSP Objectives, Performance Measures, and Guidance

The NOC would establish national objectives, national outcome-based performance measures, and guidance to promote national consistency in the development and implementation of CMS Plans. Because the intent of CMSP is integration across sectors, the NOC would develop a range of national objectives. These may include: economic, conservation, security, and social objectives. The NOC would also develop national performance measures to evaluate, monitor, and report on progress towards implementing national CMSP objectives. As specified in the *Essential Elements of the CMSP Process* and



the *Essential Elements of the Plan*, regional planning bodies would develop region-specific objectives and associated performance measures, as part of the regional CMSP process. Regional performance measures developed by the regional planning bodies would be used to track improvements towards stated CMS Plan objectives. These regional measures and objectives would be consistent with the nationally established objectives and measures.

Regional and national performance measures should directly relate to the stated national and regional objectives established in the CMSP process. Performance measures would assess both conservation and socio-economic objectives of the CMS Plan. Measures of conservation may include, but are not limited to, indicators of ecosystem health such as the status of native species diversity and abundance, habitat diversity and connectivity, and key species (*i.e.*, species known to drive the structure and function of ecosystems). In addition, socio-economic measures would be developed and may include, but are not limited to: the economic value or productivity of certain economic sectors, such as commercial and recreational fisheries, aquaculture, and offshore energy; the number of recreation days; and the time

¹² If the NOC does not certify a plan, it would provide to the regional planning body the specific reasons for its decision. The regional planning body would then have continued opportunity to address the NOC’s reasons and resubmit the plan.

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required for permit applications to complete the regulatory process. Performance measures would provide a means of demonstrating results of and provide accountability for the CMSP process to stakeholders, the general public, and decision-makers.

The NOC would develop guidance in conjunction with the regional planning bodies for regional objectives and concomitant performance measures to ensure that they are cost-effective, measurable, interpretable, grounded in theory, responsive, and specific. The NOC would develop consistent guidance for these ecological and socio-economic approaches and tools to assist regional planning bodies in these efforts in order to provide for nationally applicable common scales of assessment. This will ensure that regional planning bodies are given the independence and flexibility to develop regionally meaningful objectives and measures, but also assure that regional measures and reporting are consistent with a national CMSP performance system.

XIII. Consistency with International Law

CMS Plans would be implemented in accordance with customary international law, including as reflected in the Law of the Sea Convention, and with treaties and other international agreements to which the United States is a party. Seaward of the baseline, development and implementation of CMS Plans are to be consistent with the extent to which the United States exercises its rights and jurisdiction and performs duties in its territorial sea, EEZ, and Continental Shelf. CMS Plans would not change the rights, duties, and jurisdiction of the United States under international law, including with respect to navigational rights and freedoms. Nothing in this document or in CMS Plans developed pursuant to it would create private rights of action or other enforceable individual legal rights regarding the meaning and applicability of international law.

XIV. Adherence to and Compliance with National Ocean Council-Certified Coastal and Marine Spatial Plans

Signatories and all NOC member agencies would adhere to a NOC-certified CMS Plan, within the limits of their existing statutory and regulatory authorities. If a signatory intends to take an action that does not substantially adhere to a certified CMS Plan, it would need to provide advance notice to the regional planning body and the NOC, including justification (e.g., new statutory requirement) for the non-adherence. The CMS Plan signatories and the NOC would periodically evaluate the reasons requiring deviation from a NOC-certified CMS Plan, and, as appropriate, develop recommendations for minimizing these deviations in the future, including CMS Plan modification or underlying regulatory or statutory changes. Disputes regarding agency interpretation of a CMS Plan would be resolved according to the dispute resolution process developed by the NOC, as described above.

Agencies would incorporate components of the CMS Plan into their respective regulations to the extent possible. Adherence with CMSP would be achieved through Federal and State agencies and tribal authorities incorporating CMS Plans into their pre-planning, planning, and permitting processes, to the extent consistent with existing laws and regulations. The CMS Plan signatories would periodically

review these processes, and where legal constraints are identified, would seek to remedy these constraints, including by working with the NOC to evaluate whether a legislative solution or changes to regulations are necessary and appropriate.

The effectiveness of the CMSP process depends, in-part, on the willingness and the ability of Federal, State, and tribal authorities to ensure that activities of third-parties are in compliance with relevant laws and regulations. The Nation would not achieve the benefits of comprehensive and integrated CMSP if there were inconsistent use or violation of the applicable laws and regulations. Successful enforcement, carried out by agencies exercising their individual enforcement authorities and responsibilities, must be based upon clear, concise, and easily understood requirements that reflect the practical realities of compliance and enforcement.

CMS Plans would provide a framework for improved coordination and cooperation among Federal, State, tribal, and local enforcement agencies as they work together to enforce existing regulations in accordance with their respective authorities in support of regional goals that often extend beyond individual agency jurisdictions. To the extent permitted by existing laws and regulations, this cooperative regional approach should build productive partnerships that encourage sharing of information and best practices, help foster mutually agreed upon enforcement priorities and strategies, and make more effective use of scarce enforcement resources by focusing those resources on the highest regional enforcement priorities. A cooperative enforcement approach for Federal, State, and tribal CMSP-related laws could also facilitate more consistent interpretation and application of regulations across agencies and jurisdictions, resulting in greater certainty and understanding for ocean, coastal, and Great Lakes users, which in turn could foster improved compliance and overall effectiveness. The NOC and CMS Plan signatories would periodically review enforcement effectiveness and seek to remedy any conflicts or gaps in existing Federal-State-tribal coordinated enforcement mechanisms.

XV. Scientific Knowledge and Data Integration, Research, Management, and Access

CMSP is fundamentally science-based and adaptive in response to new evidence, technology, and understanding. Essential to CMSP are scientific knowledge and data, collectively referred to here as *information*. Information is necessary to comprehensively, consistently, and continually investigate, assess, forecast, and analyze human uses, ecosystem conditions, management alternatives, information and data gaps, and CMS Plan effectiveness. Reflecting our long history of ocean science and exploration, the United States holds vast stores of natural and social science information about ocean, coastal, and Great Lakes ecosystems and their uses which can immediately be used to begin informing CMS Plan development. However, data and knowledge gaps, particularly regarding the complexities of these ecosystems, human use patterns, and the relationship between the two, indicate the need for continuing research to supplement existing information, especially in the context of changing environmental conditions and societal needs. Additional CMSP research will provide new information, including on specific and cumulative effects, ecosystems processes and resiliency, and the assessment and valuation of ecosystem services.

Relevant and credible information is critical for successful planning and, in turn, must be accessible to Federal, State, and local managers, tribes, academics, the private sector, and the public. A robust national information management system dedicated to coastal and marine scientific data and information products is required to meet the diverse data and application requirements of CMSP, and the varying technical capabilities of users. The NOC, working with the regional planning bodies, would create a system that is compatible with existing Federal information systems, captures relevant Federal information resources, has effective governance and accountability across agencies, and preserves data confidentiality, where appropriate. The NOC would leverage and build upon existing national data systems and initiatives (e.g., ocean observation), where appropriate. Within this construct, Federal agencies and the other regional partners would make relevant data, metadata, and derived products available and web accessible using recognized national and international standards and protocols to the extent permitted by law and regulation. In addition, State agencies, tribes, academia, the private sector, stakeholders, and other non-governmental sources would be encouraged to make their relevant information and knowledge, including local and traditional knowledge, available through this system. Exceptions would include sensitive but unclassified information that cannot be synthesized and modified into a format that is appropriate for broader distribution, pursuant to CMSP needs and information that is proprietary, statutorily confidential, or classified information.

Principles to Manage and Disseminate CMSP Information

- CMSP information is a national strategic asset and must be developed and managed on an ongoing basis to meet planning needs.
- CMSP information would be made available and accessible with nationally compliant “information about information” (i.e., metadata) to stakeholders.
- Federal agencies would improve metadata to make information easier to discover, retrieve, use, and manage.
- CMSP information that is collected, produced, or disseminated by Federal agencies, including information obtained from non-Federal sources, would meet government-wide information quality standards, and any other additional minimum standards adopted by the NOC.

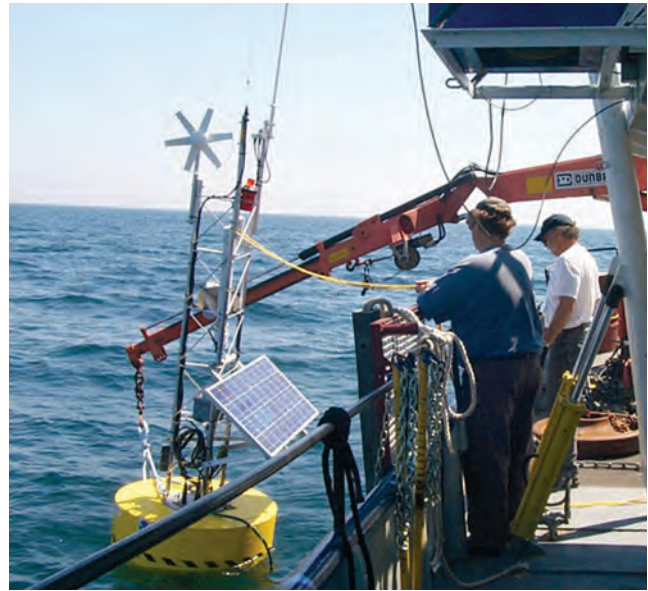
To provide easy user access to agency CMSP-related information, a national information management system with either a central portal or regional portals that connect to CMSP information would be developed. The NOC would identify a Federal lead agency or collaborative entity to manage, implement, and update the CMSP portal(s) and components of the information management system. System interoperability, information exchange, and information and application technologies are intrinsically linked and would be developed and implemented together within the CMSP portal(s). To ensure national consistency, minimum data standards for CMSP information would be adopted and include standards for information quality. All information management and provision activities would be developed and updated with participation from existing and appropriate Federal data centers and initiatives. The NOC would ensure that the information is publicly available and easy-to-access

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through computer readable files and web service formats that support a variety of CMSP and user needs. This could include web browsers, geospatial web services, and other web-based collaborative resources. The CMSP portal would leverage emerging web technologies, including private sector partnerships, to increase transparency and promote public engagement.

In order to build upon the existing CMSP scientific foundation, the NOC would establish mechanisms to identify and address priority CMSP science needs. This would include identification of priority CMSP research, data acquisition and information synthesis gaps, and new tools that would be required to apply science more effectively in the CMSP process. Identification of data, information, and research needs would be conducted on a regular basis as part of the adaptive and iterative process to improve the development and application of CMSP over time.

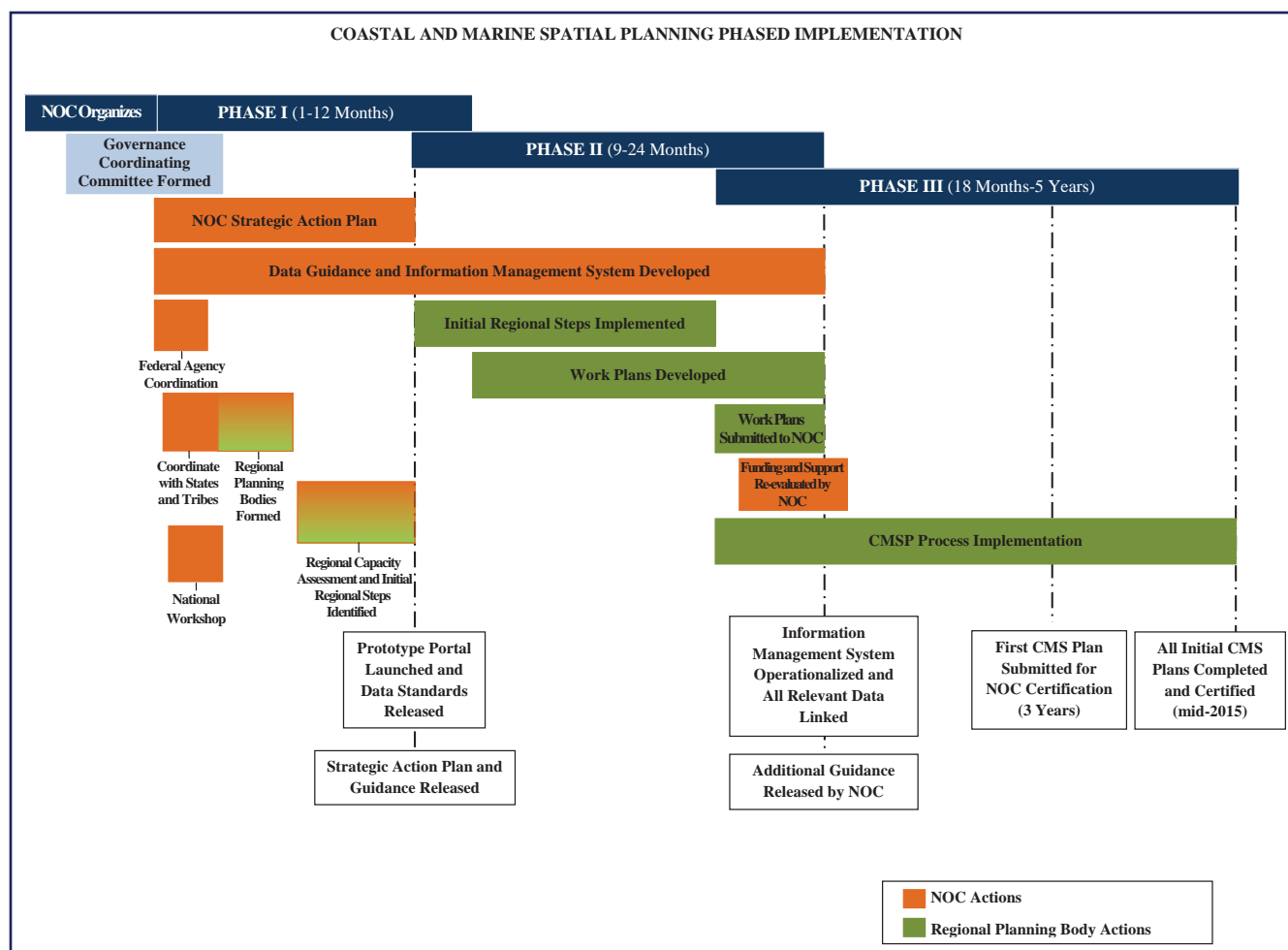
Additionally, nationally consistent, derived data products, ranging from consistent habitat maps as data layers to specialized decision-support tools, would be developed to provide a consistent framework for regional assessments and alternative future spatial management scenarios. The NOC may provide further guidance for using such information in decision-making, for example, how to decide which areas are of particular ecological importance or value. Designed or adapted specifically for CMSP, these science-based decision-support tools, including models, assessments, and visualization capabilities,



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would enable the regional planning bodies to synthesize information most relevant to CMSP decisions in ways that produce robust comprehensive CMS Plans. These tools would offer a shared knowledge base for meaningful stakeholder engagement, objective assessment of alternative and future scenarios, identification of the types of uses that are consistent with societal objectives, and regular evaluation of CMS Plans. They would be developed and made accessible in a way that regional and State efforts could build upon or add regional specific data and information to leverage these efforts and analyze the regionally-specific aspects of their planning within the broader national framework.

XVI. Implementation



Implementation of this framework would occur in multiple phases through the NOC and among the regions. As a first step, the NOC would undertake initial actions to develop and build a foundation for the national CMSP efforts. Concurrently, the NOC would directly engage States and tribes to discuss cooperative strategies to move forward with CMSP. Recognizing the extensive scope of the task of developing and implementing CMSP, it is important for Federal, State, tribal, and other partners to prioritize efforts in this initial implementation period. Each of the regions could have different priorities and be at varying stages in the development of the data, analyses, and the relevant issues for

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policy-makers. With these differences in mind, the phased approach outlined below would enable the NOC and the regions sufficient time to develop capacity, build on existing efforts, and leverage and gain efficiencies from lessons learned. In order to best achieve the completion of CMS Plans in all regions by 2015, the NOC would have the flexibility to make minor adjustments or modifications to this implementation schedule.

Phase I (1-12 months)

Many of the actions the NOC and State, tribal, and regional representatives commence in Phase I would serve as the foundation to implement CMSP on a national scale.

Develop NOC Internal Organization and Begin Strategic Action Plan (Months 1-9)

In the first month of Phase I, building on the initial establishment and organization period of the NOC, the NOC would determine how best to incorporate CMSP into the NOC governance structure (e.g., establish a CMSP Interagency Policy Sub-Committee), decide on the roles of individual agencies in implementing specific elements of the CMSP framework, including identification of a lead Federal agency for each regional planning body that would serve with non-Federal co-lead(s), and assess resource needs including personnel, financial, and technical CMSP support.

The NOC would then begin development of a strategic action plan to address specific areas that require additional consideration, analysis, and elaboration. The strategic action plan would be released in six to nine months and include: national objectives; national performance measures; guidance regarding the development of a national information management system, including identification of additional CMSP information and research needs; legal analysis and recommendations for legislative changes, if necessary; description of a dispute resolution mechanism, as described previously; and any additional guidance the NOC deems appropriate for CMSP. The NOC would also further assess the relationship between RFMCs and regional planning bodies and determine the most effective mechanism for engagement in the CMSP process, including whether representation on the regional planning bodies is the best method for such engagement. The NOC would ensure opportunity for the GCC, existing regional governance organizations, and public participation as it develops the strategic action plan for coastal and marine spatial planning. The NOC, in cooperation with the GCC, would provide for a mechanism for resolving disputes if they occur among the members of the regional planning bodies during the development of CMS Plans, as described in Section X of this Part.

Develop and Implement Public and Stakeholder Engagement

Early and meaningful steps to facilitate public and stakeholder outreach and education regarding CMSP and its implementation are vital to advance national CMSP efforts. As discussed above, the NOC would ensure substantial opportunity for public participation as it develops all nine strategic action plans, including the strategic action plan for coastal and marine spatial planning. Also, to better inform all participants and the public, the NOC would work with Federal agencies and the regional planning bodies, when established, to guide the drafting and production of educational materials, guidebooks,

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manuals, and other materials. These materials would be developed keeping in mind that the content should reflect the issues, language, and methods that would be meaningful in a particular region. These materials would include a glossary of key CMSP terms in order to reduce potential misunderstandings that could result in an inconsistent or ineffective CMSP process. The NOC, in coordination with the regional planning bodies, when established, would hold additional informational workshops for stakeholders to discuss the CMSP process and potential ways stakeholder participation would take place. Additional stakeholder engagement would be conducted by the regional planning bodies throughout the CMSP process.

National Objectives and National Performance Measures

As part of the strategic action plan, the NOC would establish national objectives for CMSP consistent with, and in furtherance of, the National Policy, CMSP goals and principles, and other relevant national goals and priorities. These national objectives would serve as additional direction for the development of regional objectives and to help to maintain national and regional consistency of CMSP. Along with these objectives, national outcome-based performance measures would be established to help define success and measure results.

Guidance Regarding the Development of a National Information Management System

While overarching objectives and measures would help direct CMSP efforts, guidance on data, technology, and tools would also be developed. During the first six to nine months, initial actions to coordinate, integrate, and manage data would be necessary. The NOC would begin development of a national information management system and CMSP portal(s), adopt minimum data standards consistent with government-wide information quality standards, identify a Federal lead agency or entity to manage, implement, and update the CMSP portal(s), identify and begin development of any new standard tools or models needed for CMSP in all regions, and identify additional CMSP information and research needs. At the end of nine months, guidance on these fundamentals would be released as part of the strategic action plan and a prototype CMSP portal(s) would be operational. However, building the information management system and linking the relevant data may take up to two years and would be ongoing as new information becomes available.

Legal Analysis and Recommendations of Legislative Changes, if Necessary

Also, as part of the strategic action plan, the NOC would oversee efforts to identify gaps and conflicts in Federal authorities and recommend potential steps to reconcile them. This effort would examine how various statutory authorities of particular agencies can be harmonized in order to support comprehensive, integrated CMSP. Further, the NOC would consider how legal authorities of Federal, State, tribal, and local entities might collectively be used to support implementation of regional CMSP efforts. In doing so, the NOC should identify objective priorities and existing grant or other assistance programs that can support CMSP, consistent with relevant authorities.

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Convene and Organize Federal Agency Representatives in the Regions (Months 1-2)

National and regional Federal agency representatives would convene to discuss current and improved methods for communicating, sharing data and products, exploring regulatory efficiencies, and determining how best to work with State and tribal partners to achieve a CMS Plan. Due diligence is necessary on the part of the Federal community to self organize and coordinate among agencies before engaging State and tribal partners to ensure that a service is being provided in a way that meets considerations unique to each region.

Develop Model Agreement (Months 1-3)

During the first three months of Phase I, the NOC would create and make available a model development agreement to be used by the regional planning bodies. This model would be used to foster efficiency and consistency in forming the regional planning bodies. As described in Section X of this Part, the development agreement would be an express commitment to work cooperatively to engage in CMSP and develop eventual CMS Plans, identify the lead representatives for each of the partners, and define ground rules, roles, and responsibilities of the partners.

Organize and Convene a National Workshop(s) and CMSP Simulation Exercise (Months 2-4)

Within the initial two to four months of Phase I, the NOC would also organize and convene, with input from the GCC, one or more workshops and a CMSP process simulation exercise for potential regional planning body representatives. The workshop(s) would be a forum to directly engage Federal, State, and tribal representatives, to give an overview of CMSP and the national framework, to demonstrate and test how this framework would work in a planning exercise, and to discuss collaborative strategies to move forward. The NOC would identify lessons learned and additional operational issues that were brought to light from the workshop(s) and exercise within two months of workshop completion.

Determine Composition of and Establish Regional Planning Bodies (Months 4-6)

After the workshop and exercise are held, the NOC, with advice from the GCC, would determine the additional types of representation needed for the composition of the regional planning bodies. Once the composition of the regional planning bodies is determined, the NOC would coordinate with the appropriate State authorities (e.g., Governors) and tribal representatives to establish regional planning bodies for each of the nine regions, identify specific members, and enter into a development agreement.

Capacity Assessment and Identification of Initial Regional Steps (Months 6-12)

During the latter six to twelve months of Phase I, the regional planning bodies would conduct a regional CMSP capacity assessment. The assessment would evaluate capabilities, expertise, and resources in each region available to develop and implement CMSP. In addition, the assessment would help to identify and prioritize initial regional steps described below in Phase II. The NOC, in coordination with the regional planning bodies, would make a determination on how best to meet the needs identified in the capacity assessment and to support the initial regional steps through existing mechanisms, and possibly new resources and/or funding mechanisms.

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Develop Stakeholder and Scientific Participation Process (Months 6-18)

During Phase I, each regional planning body would begin to identify key stakeholders, scientific and technical experts, non-governmental organizations, and other partners to engage in the CMSP process. A formal mechanism for regular stakeholder, scientific, and technical input would be established and incorporated into the process. Additionally, regional planning bodies, in conjunction with the NOC, would establish procedures and methods to ensure transparency, participation, and collaboration in the planning process, such as public meetings, document availability, and timely public notification.



Phase II (9-24 months)

Building on Phase I's initial foundational steps of CMSP implementation, Phase II focuses on building capacity and testing specific issues or elements of the process.

Initial Regional Steps (Months 9-18) and Work Plan Development (Months 12-24)

During Phase II, the NOC would enable the regions to focus during the initial work plan development period on those issues that are of highest regional priority. In this way, these early steps in each region can serve as a test for the other regions for specific issues. For example, a region may select to begin CMSP efforts by organizing, gathering, and analyzing data, whereas another region may select to focus on developing regional CMS Plan objectives. The focus for each region's initial steps should be agreed upon after the capacity assessment is completed at the end of Phase I. After the initial regional steps are underway, the regional planning bodies would begin development of a full CMSP work plan, as detailed in Section X of this Part. In development of its work plan, each regional planning body should integrate the lessons learned from its and other regions' initial steps and also consider how to best integrate relevant ongoing regional planning initiatives.

Work Plan Submittal and Planning Process Preparation (Months 18-24)

Once initial regional steps are completed or in tandem with their completion, the regional planning bodies would submit to the NOC a package consisting of the proposed work plan. Once the work plan is submitted, the NOC would re-evaluate how best to support the regional CMSP effort through existing mechanisms, and possibly new resources or funding mechanisms to build on the lessons learned from the initial regional CMSP steps. For example, support might involve individual agencies

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contributing staff or technical expertise to efforts coordinated through the NOC, or identifying existing grant programs to help support CMSP and achieve mutually agreed upon outcomes.

Phase III (18 months to 5 years)

While continuing to advance the actions and steps of Phases I and II, regional planning bodies would build out and scale up their efforts to establish a comprehensive CMSP process during Phase III to develop, multi-objective, multi-sectoral CMS Plans in all regions.

Develop and Carry Out CMSP Process and Provide Feedback from Initial Regional Steps (Months 18 and beyond)

After the initial regional steps are undertaken by each region, the regional planning bodies would transition into Phase III, developing and carrying out a CMSP process using the initial regional steps and the work of the NOC as a foundation. There is recognition that some regions' planning processes might be longer or more complicated than others. The timeframes for completion of the CMSP process are intended to be flexible to account for differing levels of resources, capacity, and other factors. During this process, regional planning bodies, in coordination with the NOC, would develop a mechanism for providing feedback and status reports to the NOC and appropriate State and tribal leadership to share lessons learned, best practices, and ensure routine and frequent communication nationally and among the regions. The regional planning bodies, in coordination with the NOC, would also ensure consistency, address questions and concerns, and adaptively manage the effort as appropriate. Although there would be flexibility in the framework to allow for variable CMSP process timeframes, regional planning bodies are encouraged to have final CMS Plans completed in three years and all regions would be expected to have final CMS Plans certified and implementation started by mid-2015. These final CMS Plans are intended to be iterative and are expected to be modified through the adaptive process beyond 2015.

XVII. Priorities for Financial and Other Support

Recognizing the reality of the limited availability of new resources, each of the Federal agencies engaged in this bold mission of developing and implementing CMSP would re-evaluate how resources are allocated in light of their statutory and regulatory mandates. Agencies would use the implementing actions of the President to recommend adjustments to their respective agency priorities to better align with the approved National Policy and CMSP goals. As CMSP is developed and implemented over time, the NOC would consider any additional resource needs through the budget prioritization process described earlier. Various Federal agencies would have differing roles to support the scientific basis and governance structures necessary to develop and implement CMSP. The following four areas should receive initial priority consideration for financial and other support for CMSP.

1. National Workshop(s) and Simulation Exercise

Priority: Hold a national workshop(s) and simulation exercise.

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Rationale: The first step towards a constructive process for CMSP would be for the participants to engage in a forum that creates a common vision for implementing CMSP, to identify challenges and solutions for regional CMSP development, and to enhance the capacity of regions to implement CMSP. This priority also would include support to ensure widespread involvement of Federal, State, and tribal representatives.

2. Initial Support for Regional CMSP Processes

Priority: Support the development of regional CMSP, including the capacity for regional planning bodies and the NOC to carry out initial CMSP activities.

Rationale: A comprehensive and inclusive approach for regional CMSP planning processes would be based on each region engaging Federal, State, and tribal representatives to form the regional planning bodies. An effective process to sustain initial CMSP activities would necessitate regional planning bodies to organize and establish the necessary CMSP coordination (e.g., partnerships, interagency teams, and technical support staffing). To attain national and regional objectives, regional planning bodies would assess capacities, target resources, and begin implementing initial regional steps (e.g., stakeholder engagement, information acquisition, and CMS Plan development). This priority would also include support for the NOC to establish and carry out the necessary national CMSP steps (e.g., national objectives, national guidance, and building regional capacities), as described in Section XVI of this Part.

3. National Data and Information Management System, Prototype CMSP Portal(s) and Initial Development of Science and Information Needs

Priority: Improve and integrate the information (i.e., data and knowledge) used to inform CMSP; and identify additional scientific research to support CMSP information needs.

Rationale: Effective CMSP would utilize the best available data and objective analyses. Such information would be nationally consistent, publicly available, and easily accessible to promote public engagement and allow for a consistent framework for regional implementation. Priority would be given to developing the national information management system and a prototype CMSP data portal(s). Subsequent efforts would identify and fill key national information needs,¹³ and develop CMSP decision-support tools and derived data products, including visualization tools, forecasting, and routine integrated ecosystem assessments. Additionally, scientific understanding is central to make informed CMSP decisions that reflect an integrated and transparent planning framework. To achieve this end would require a robust research foundation.

¹³ Identification and filling information gaps, as previously presented in the framework, is an ongoing and iterative process. This framework recognizes that the acquisition of data and knowledge would proceed in tandem with developing CMS Plans using sound science and the best available information.

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4. Public Outreach and Stakeholder Engagement

Priority: Build the knowledge, skills, and understanding of CMSP through regional planning bodies and stakeholder workshops, blogs, webinars, and other outreach methods.

Rationale: An informed and engaged public and stakeholder community is critical to the effective implementation of the CMS Plans. Effective CMSP is predicated on the building of knowledge, skills, and understanding of CMSP through a range of robust outreach approaches.

