

I am William Nuckols, Principal of W.H. Nuckols Consulting, and my comments are based on over 20 years of marine science experience and public policy expertise in DC that spans three Administrations.

This testimony includes recommendations for the Obama Administration on the establishment of a National Ocean Policy and comments on the September 10, 2009, interim report of the Ocean Policy Task Force (OPTF). The information provided includes issues raised in oral and written testimony at the Providence, Rhode Island, Ocean Policy Task Force public meeting as well several additional policy issues.

Comments are divided into the following areas:

1. Call for a timely response to the OPTF's report and announcement of the establishment of a National Ocean Policy
2. Recommendations for a National Ocean and Coastal Policy
3. Suggested Framework for Policy Coordination
4. Recommendations for an Implementation Strategy
5. Recommendations for a Framework for Effective Coastal and Marine Spatial Planning
6. Comments on the Implications of Other Emerging Issues

1. Call for a timely response to the OPTF's report and announcement of the establishment of a National Ocean Policy

A timely response to the OPTF's report and announcement by President Obama of the establishment of a National Ocean Policy is directly related to the impact of the President on our oceans and coasts in this four-year term. Now that the Ocean Policy Task Force has produced the policy recommendations requested by the President, moving quickly toward establishing the National Ocean Policy and an implementation strategy in a timely manner is crucial. While public meetings are continuing somewhat untimely after the call for public input, assuming that even if these public listening sessions are considered as the President determines our national ocean policy, the last of the public meetings are the Gulf Coast meeting to be held on October 19, 2009, and the Great Lakes region which does not yet have an official meeting date. Given that the OPTF's recommendations were provided to the President in September, unless the President is actively seeking policy recommendations input from additional sources, there is no reason the establishment of a national ocean policy should not move forward. Reasons for moving forward in a timely manner are multiple. First, the June 12, 2009, memo from the President to the heads of Executive Departments and Agencies calls for recommendations to be provided to the President within 90 days of the memo. Not stated directly in the memo, but widely held opinions by much of the ocean policy community include the belief that after two prominent commissions, (the Commission on Ocean Policy and Pew Trust's Pew Oceans Commission); reports by the Joint Ocean Commission Initiative; and years of discussion there exists a great volume of information and policy wisdom which simply needs to be examined and appropriately combined so that we can finally make significant moves forward in improving the

health of our oceans and coasts and the communities that rely on these resources can be moved forward. The memo from President Obama excludes any mention that establishing a national ocean policy will not be made until after the work on marine spatial planning has also occurred. Current indications are that an establishment of a national ocean policy will not occur until after the 180-day timeframe for the marine spatial planning recommendations. Waiting an additional 90 days or more after the President has received recommendations from the OPTF will mean that the President will be going to the December 2009 United Nations Climate Change Conference in Copenhagen, Denmark, without a clearly articulated National Ocean Policy.

Remnant governance structures from the prior Administration are winding down as they anticipate their official dissolution, and at the same time far too many people are waiting to see what policies and implementation schemes will be developed, leaving a good deal of ongoing work to plod forward cautiously not knowing whether their part of the administration is poised to be strengthened, or cut back as resources are reallocated and reemphasized. The 2011 budget planning is close to completion and multiple agencies are on the cusp of planning for the 2012 fiscal year, all without guidance from the President on a unifying ocean policy for the nation. Delaying an official ocean policy dooms any significant budget planning to not have any impact until the last years of this President's term.

Lacking an ocean policy and a corresponding budget approach, the Executive is left to make its biggest impact by being adaptive to an unplanned and uncoordinated budget approach that has for far too long been the hallmark of the ocean community. But even a robust implementation mechanism that works to maximize the budget processes already in place will take time to establish. Governance structures are only vaguely outlined in the OPTF's report, and even once the details of a new system are in place, convening those bodies and leaving time for adaptive management will mean these groups' impact will be delayed likely until the second half of the President's term.

The impact of just a few months' delay threatens to short-circuit the wisdom of President Obama's call for the Administration's top minds to provide him with policy recommendations in a timely manner.

2. Recommendations for a National Ocean and Coastal Policy

A national ocean policy should include the following as components:

- Policies that forward the interests of the nation on the whole
- Encouragement for increases in efficiencies of appropriated funds
- A commitment to coordinated budget planning
- Adoption of the precautionary principal as a guideline for overall policy development
- Protection of our national resources, which entails rebuilding both our living resources that have been lost and the habitats that have been destroyed that they rely upon, and as importantly, protection of our nation's resources. Protection means not just by working on marine reserve areas, but also including an examine a much more controversial area of public policy: the restriction of further development on land and constraints on certain

land use practices on coastal lands that are crucial to the health of our coastal and marine systems.

- Recognition that education is a key component to ensuring rational resource stewardship, and that education needs apply to the entire range of ages in the U.S. population. This means that we must commit to a robust and ongoing system of formal and informal education for Americans of school age as well as informal education, such as that which occurs in facilities such as museums and aquariums, for the entire “K through gray” American population.

Especially given these challenging economic times, when the President releases his national ocean policy it should ideally include a quote such as, “When addressing coastal and ocean issues my Administration will plan for, and execute, an unprecedented level of efficiency as the federal government delivers sustainable resources, safety and national security to the American people.” Efficiency needs to be the hallmark of a change in attitudes and practices in the federal government. While the Ocean Policy Task Force report briefly mentions encouraging efficiency on page 17 as the next to last bullet in the policy section of the report, I argue that—as currently written and approached—this mention is woefully insufficient given the status of the economy.

3. Suggested Framework for Policy Coordination

A National Federal Committee Structure:

A successful framework for policy coordination would allow for a reduction of duplication of capabilities, where redundancy does not itself serve a policy goal, and a system where the various statutory authorities, budget requests and budget allocations by Congress can be aligned to maximize benefits to the nation. To achieve an optimal delivery of services to the nation, a framework will need to address both long range planning, and also a system for implementing efficient delivery of services during times of uncoordinated budget planning and further down the road when/if improved budget planning is achieved.

National level policy coordination has been an ongoing struggle with representation from various departments varying widely, and a lack of clarity on an overarching national ocean policy has further challenged attempts to make headway.

Lessons learned from prior coordination structures are clearly relevant to this Administration’s interest in a successful Framework. The Coastal America Partnership, which now spans four Administrations, takes an approach that seeks to organize itself at its top national level with two structures, a Principals group, comprised of a mix of levels of political level positions, commonly Undersecretaries through Deputy Assistant Secretaries; and a National Implementation Team comprised of senior career representatives from those same agencies. The advantage of Coastal America’s Principals group as its top organizing body is that policies and decisions put forth from that body are seen as Administration positions, given the political

appointee level representation of the group. As such, the Coastal America Principals group can serve as a way for an Administration to convey common Administration-wide goals or policies.

In the latter half of the Bush Administration, the Commission on Ocean Policy (COP) structure included: a cabinet level body, which met only once in a ceremonial capacity; a body of a level similar to the Coastal America Principals called ICOSRMI; and substructures called JSOST, which addressed research and SIMOR which addressed living and non-living ocean resources.

The establishment of a cabinet level structure which never found a rationale for meeting should be a cautionary note to the current Administration. Such a high level body needs a purpose that justifies the time and attention of leaders at that level. There should be a process in place for a cabinet level group for elevation of issues of significant national importance, such as establishing or updating a national ocean policy, evaluation of the performance of subordinate coordinating structures, and alignment of individual agency policies behind priority Presidential ocean goals articulated through or in coordination with the State of the Union. Annual meetings of this level of a body prior to submission of the Administration's recommended budget to determine if and how budgets are aligned to support the President's goals for our oceans and coasts would also be a valuable and appropriate use of a cabinet level group.

For the mid-level political level working group, such as identified by the prior Administration's ICOSRMI committee, issues addressed by that body should address topics of importance to that Administration, and their work should mirror the position of the President. This would include deliberation on how best to align research and management components of the government and an open and honest discussion of what parts of the President's portfolio of agencies is best positioned to accomplish certain types of work. This is the opportunity for a committee of political appointees to step out of their daily role as administrators of a particular department or agency and discuss openly what budgeting and implementation steps need to be accomplished to move forward the overall Administration's ocean and coastal goals.

Day to day operational level coordination and communication of issues can be accomplished by committees of Senior Executive Service level representation from agencies. This institutionalizes the assurance that years of experience inherent in the agencies' professional staff are included in discussions of long and short range budgeting and implementation strategies.

Crucial to the success of every level of these groups' success is appropriate staff support for both the organizational aspects of these groups (ensuring timely and accurate flow of information across the committee's members, convening meetings, ensuring appropriate topics are assigned to the appropriate committees, etc.) and advance policy work that is necessary for decision makers to be appropriately prepared to optimize their time and impact at these meetings.

Failure to assign and support organizing committees, in performance plans and with financial and FTE resources, has all but ensured that prior structures will fail to achieve any meaningful impact on the status of our ocean and coasts. It is imperative that this mistake not be repeated, and if a determination is made that the committees cannot be staffed, due to other priority resource priorities, that committees not meet for the sake of meeting.

Coordination vs. Collaboration

Various prior organizing structures have struggled as they lack a clear understanding of whether governance structures' purpose is to provide a forum for vertical integration of information of ongoing activities (i.e. a reporting mechanism for what is happening at the regional and national levels within departments and agencies) or whether the forums are meant to provide a meeting for space for coordination and collaboration on specific projects (i.e. each of three agencies who have overlapping authorities brings a piece of the needed resources to the table to accomplish what individual agencies are not accomplishing on their own).

An optimized Framework for Coordination would provide both a robust reporting mechanism of ongoing activities as well as a report on areas that are not being accomplished at a level appropriate given national policy goals. The purpose of these reports is so that resources may be reallocated to match national priorities.

Coordination with States

Much attention has been given in recent years to how the federal agencies and governance structures would align and coordinate themselves with multi-state alliances. This has at times related to a range of possibilities including: a deference to the interests of states; anticipated alignment of federal and state resources to address regional issues; and to an attempt to reply on states to determine regional priorities when federal agencies are lacking their own coherent national or regional approach. To put it more bluntly, what has been at times couched as deference to state interests has been a proxy for a failure of the federal government to examine its statutory responsibilities and determine what should be the regional priorities that federal agencies should align themselves with given the activities' importance to the nation. Issues put forward in regional alliances are not necessarily the issues of top importance to the populations in those states, but are rather issues that lack state to state conflicts, thereby allowing a regional alliance organization to list them as a common goal. For example, the emerging issue of water rights in the southeast U.S., with ongoing political and legal battles between the states of GA and FL, are not going to be highlighted as top issues of importance by The Governors' South Atlantic Alliance. However, given the impact populations and living resources in those areas there is clearly a significant federal interest in water availability that spans multiple federal agencies. Aligning federal priorities with a list derived by least common denominators is clearly not an optimal approach for agencies with federal statutory responsibilities.

As utilizing regional governors groups as a proxy for the optimal list of multi-state regional priorities for federal agencies is inappropriate, looking to these groups as the sole determination of federal priorities within a region will also fail to recognize issues which could be of significant national importance that lie within just one state.

Consideration of priority issues identified by regional governors' alliances is best utilized by examining where federal priorities and state or multi-state regional priorities overlap. This is significant from a point of cost-sharing opportunities, but also because this allows for an examination of how best to execute projects of joint interest. Decisions on whether projects are

led by federal, state or NGO entities should be determined by which group is best positioned to most efficiently and effectively achieve the policy goals of the group.

Working within the present widely varying level of regional coordination capabilities

Too often plans for federal coordination within regions suffer from a tendency to oversimplify the widely ranging sophistication, capacity and resources of regional structures. The three most often cited regional coordination mechanisms for state and federal collaboration are the Chesapeake Bay, the Gulf of Mexico and the Great Lakes, all of which are supported by federal programs with specific and dedicated funds to support coordination in those regions. These are in great contrast to the remainder of the Atlantic coast, the west coast and especially Alaska and the Pacific Islands region. A sophisticated approach will work within these realities and produce appropriate coordination mechanisms tailored to the realities of those areas.

Coordination with Tribes

Coordination with both recognized and unrecognized tribes will remain important for an optimized ocean and coastal coordination mechanism. Compared to prior coordination efforts, increased involvement of Bureau of Indian Affairs (BIA) and the Office of Insular Affairs will be a necessary, but not entirely sufficient, component of an Obama Administration ocean and coastal policy coordination mechanism. Attention should be paid to both issues common to federal multi-agency interests and also to issues of importance specifically to tribes, given treaties and rights specific to tribes.

Seeking Out Opportunities to Increase Efficiencies

One area for improvement in efficiencies is the federal budgeting process. A few years ago the ocean community mulled over the options of significantly restructuring federal agency and congressional committee responsibilities or leaving the often cited complex and unwieldy collection of statues and authorities in place. As the political realities of moving forward with a holistic restructuring became an impractical option, people moved toward the idea of providing an improved roadmap for coordination and collaboration.

In the field of rational budget planning we appear to have made little progress. Given the realities of the Hill's authorization and appropriation committee structures, options for improvements in rational *efficiency-based* budget planning are best accomplished by the Executive Branch. The Executive Branch could provide Congress with topic or theme-based budget proposals that clearly indicate how both Presidential Priorities and federal statutory responsibilities are addresses by agency budgets. This refers to a much more robust budget presentation than in SEC. 5., Biennial Report, of the Ocean Act of 2000.

Crosscut budget planning

True budget crosscuts are rare in government, but when implemented correctly they could provide an improvement in delivery of resources to programs crucial to policy goals articulated

by the President in a National Ocean Policy. An examination of the viability of crosscut budgets for top national ocean policy goals should be implemented immediately with the hopes of impacting the 2011, and more realistically, the 2012 fiscal years.

Joint Budget Presentations

Given the difficulties inherent in true budget crosscut planning, an initial step could include joint budget presentations. The Executive branch is best positioned to demonstrate to the legislative branch how different parts of the President's budget are complimentary, and package budget documents for the various authorizing and appropriating committees a depiction of cases when funding one part of the federal budget has cascading effects across committees, with indications of efficiencies garnered for the public as individual funding streams accomplish multiple federal statutory responsibilities. Joint budget presentations would continue until crosscut budget planning is accomplished, or for fields where crosscut budgets will not be pursued but presentation of budget information and its relevance to multiple committees or subcommittees will aid in the support of the President's budget proposal.

Locating common items in multiple agencies can be challenging. For instance, significant effort was made to locate the major programs funding and accomplishing the restoration, protection and creation of wetlands in the last Administration. Unfortunately that information was only utilized for the purposes of documenting accomplishments, but not planning purposes, but most of the locating of the relevant programs having been done, little work would be needed to move forward with joint budget presentations of proposed budgets, a logical step on the way to true crosscutting budget planning.

4. Recommendations for an implementation strategy

As there currently seems to be no consensus to significantly reorganize either Congress's committee system or the basic structures of agencies in the executive that implement coastal and ocean programs, the only option left is to build a robust coordination system that seeks to seek out an efficient implementation of policy in spite of an effective system to plan.

Given delays in impacts from coordinated budget planning, a robust coordination mechanism is needed

Each administration inherits the prior administration's budget planning and implementation strategy. And even once a national policy is put in place and the option for coordinated budget planning is viable, the impact of budget planning that begins today will have a delayed impact of some two fiscal years. Therefore there is a need for a structure to craft an implementation strategy utilizing the budget streams that are already in motion.

At best speed, given the delay in budget planning processes, the impact of improved planning would not result in on the ground impacts until at least 2011, and more realistically 2012. This means that for at least half of this President's term he will be working to execute a collection of budget lines that are not optimized to align with any overarching policy.

Therefore a robust coordination mechanism is needed to maximize the outputs of an unplanned system. We have tried a variety of implementation coordination efforts at the national and regional level, but none of them have been optimized to achieve results, in part because the investment to achieve the economy of scale necessary to generate significant efficiencies has not been staffed.

Governance structures implemented in the prior administration were less effective than the structure as listed on governance organization diagrams would indicate

The President's call for attention to coastal and ocean issues in the Bush Administration's preferred structure included the Commission on Ocean Policy or the COP, which was organized at the cabinet level. This group only met once, and that was in a ceremonial sense, not to confer on ocean policy issues of national significance. The COP's next organizational level referred to as ICOSRMI, as well as its subordinate level group SIMOR and JSOST both lacked sufficient structure to be effective or generate a mandate that agencies seek out the most efficient and effective strategies to implement political goals.

The President Plays an Important Role in Implementing a National Ocean Policy

What was more effective than the COP structure was the Bush Administration's document called the Ocean Action Plan. While it lacked specificity or a significant change in policy direction to effect a number of needed changes in the system, it was successful in providing the career staffs in agencies with a rallying point for programs and projects that were seen as supporting the President's Ocean Action Plan. The use of the term "President" was key, as it reflected not one committee, agency or department's recommendations or policies, but rather the position of the White House itself. The involvement of the President and the Executive Office of the President provides, at a minimum, a level of cover for motivated people to continue, and perhaps even enhance, the work they are accomplishing in their agencies. This call for action and attention to specific issues by President Obama can be a powerful tool, whose use comes at a very low cost to the Administration.

5. Recommendations for a framework for effective coastal and marine spatial planning

What is clear is that the current system which permits the use of public space of seafloor and the water column on a first come first serve basis is unlikely to result in outcomes that maximize benefits to the nation.

We currently do not have any process that allows for a system of marine zoning that would optimize what activities occur in what portion of the federal waters in order to maximize benefits to the people of the nation. At this time activities are more or less a first come, first serve system where the control on activities are based on whether the first person who shows up can get their permits approved. There is currently much discussion on the need for a marine zoning system,

but as these discussions are in their infancy and we possibly lack the statutory authority to implement a zoning system, yet decisions of national significance, such as policy decisions about expansions into new areas of the OSC are being called for now, and the public comments and field hearings for input ended in August. This drives home the fact that it is a policy structure that resolves not just conflicts between two competing current applicants for the same piece of ocean, but an examination of what uses of our coasts and oceans is optimal for the wellbeing of the nation need to be established as soon as possible. Direction for policy goals and methods for a rollout that ensures such policy goals will be couched within the timely announcement of a National Ocean Policy and establishment of the governance structures that are created to ensure achievement of the National Ocean Policy goals.

Working on the topic of marine spatial planning without the national ocean and coastal policy framework in place adds an unnecessary level of contingency planning for the policy dialogue surrounding use of our oceans and coasts.

For instance, the Department of the Interior (DOI) moving forward unilaterally without an integrated policy approach that includes the work of the Ocean Policy Task Force, and the responses of the public to suggestions from the Task Force to the President, will result in a confused, uncoordinated approach to public policy that would be a continuation of prior disconnected public policy that has haunted prior administrations. Clearly, when the President called upon the Task Force to provide him with recommendations and indicated that the White House itself will be engaged in ocean policy development, the implication was that the status quo way of doing business was not acceptable to the President or the nation.

As we move toward the creating of a system for marine spatial planning, what is likely to come together fairly quickly is a 2-dimensional series of map layers that show existing or proposed ocean and coastal waters' uses as they exist today. What will be harder to map and display in a way easily digestible by regulators, commercial and environmental interests and the public will a mapping system that integrates a non-static view of time. This too is able to be addressed by GIS systems, and lessons learned in terrestrial systems.

A planning system for the marine realm will need to exist as a system that examines conflicting marine uses, and also will require integration with land based spatial planning systems. In particular, spatial planning systems, more likely known to most people as zoning plans, that relate to transportation, infrastructure and land use practices need to integrate into a system looking at the marine zone.

6. Comments on the implications of other emerging issues

Emerging issues are inherently a dynamic set of situations. One version of a litmus test for analyzing the viability of a national ocean policy is to examine how it will fare in the face of a wide range of possible outcomes.

Integration of offshore energy development and national energy policies on land are necessary if we are to optimize holistic benefits to the nation. Will we be emphasizing electricity based transportation in highly urbanized areas such as the northeast? If so, offshore wind and tidal power may be a significant issue as we move away from a dependence on petroleum from other nations. Clean Air Act related policies can also have an interaction with policies we look to implement in the coastal and open ocean areas. Will a move away from existing coal burning plants increase the need for additional supplies of natural gas? Can that increased natural gas supply be delivered through the existing pipeline delivery system or will liquefied natural gas (LNG) be a critical component of delivering natural gas to existing and expanding coastal communities? Will a wholesale shift in energy needs that move from a combustion engine based economy to an electricity storage, distribution and usage? How fast will these changes occur? Is the Department of Homeland Security (DHS) and other security services ready for an increase in LNG vessel traffic and shore based facilities if an increase in natural gas delivery is required by a national energy policy? How are national policies intended to address these changing dynamics being integrated into a national ocean policy formulation and implementation? Clearly a governance structure would need to recognize not only these dynamic situations but also be flexible and adaptive to additional national policy needs as they emerge.

Climate change will have a widely ranging collection of effects on coastal communities. Some of these, such as sea level rise planning, will put a need for a level of planning that crosses political boundaries at an elevated plane which may cause us to ask whether a system that is currently designed to give deference to local (usually county) government is well suited for a dynamic set of conditions created by changing climate. Other climate change impacts, such as shifting locations of fish stocks in northern waters to yet higher latitudes will cause us to ask whether we are planning for an optional approach for utilization of federal resources as we move forward. When the commercial fleets move farther and farther north as the stocks migrate and as the ice pack breakup allows for practical fishing farther north, will we want to extend our Search and Rescue (SAR) operations farther from our current bases, or will we relocate our SAR bases to new locations? And if we consider relocating our SAR operations, would we consider federal support for community infrastructure investments that would allow the fishing fleets' home ports to be relocated farther north? Will the reduction in Coast Guard patrol costs and fuel spent by the commercial fleet justify a relocation? What would be the impact of such relocation policies on existing coastal fishing communities?

Farther north yet, the reduction in seasonal ice will result in increased seasonal vessel traffic in the Arctic and models show that eventually near year round passage will be possible. What will be the effects in changing cargo shipping have on coastal communities that will receive the increased flow in traffic? How fast can we move to refurbish our existing sea ice breaking capable USCG fleet?

Vessel traffic transiting portions of ocean that have never experienced vessels and the environmental disasters that seemingly always follow them, namely petroleum spills and marine

debris, will present their own challenges. What we do to ensure an environmental spill response system in far northern waters? How much will be achievable by multi-national agreements to share spill response systems, and what will be the implications on our national environmental security if in later years geopolitics results in the failures of multinational agreements we put in place now? Will a robust spill response system be the most cost effective and efficient system or will a prevention system be the best policy? Currently no system exists for recovery of petroleum spills from under the ice. Should R&D funds be spent to identify systems that circumvent this impediment? Should ships be designed to decrease the chance of spills in the first place? The U.S.'s call for double hull tankers following spills in U.S. waters have resulted in some ship's design changes that are increasing environmental protection, but is "double hull" the answer to all of shipping's increased environmental protection advances? Some marine architects think not, and a multinational discussion of the future of shipping and ships' design for those vessels that will pass through arctic waters is likely already well overdue.

This testimony includes recommendations for the Obama Administration on the establishment of a National Ocean Policy and comments on the September 10, 2009, interim report of the Ocean Policy Task Force (OPTF). The information provided includes issues raised in oral and written testimony at the Providence, Rhode Island, Ocean Policy Task Force public meeting as well several additional policy issues.