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National Ocean Policy: Plan, Schedule, But No Muscle

By Pietro Parravano, Zeke Grader

In mid-April (2013) the Obama Administration released its long-awaited National Ocean Policy Implementation Plan. The plan is a scaled down version of last year's draft developed following a set of regional hearings held in 2009 by the Council on Environmental Quality, the National Oceanic & Atmospheric Administration and other federal agencies, followed by the President's National Ocean Policy Executive Order of 9 July 2010 (EO 13547) that, among other things, created the National Oceans Council.

The release of the Plan and its Appendix, setting out a schedule for implementation, garnered the expected responses. The big ocean conservation groups applauded it. Many industry types and the more moderate recreational fishing groups were circumspect. There were shrill statements from the House majority leadership and some radical sport fishing groups, who labeled it as top-down Washington micromanagement. And, for us, it was – "Is that it?"

Background

This year marks the 10th anniversary of the issuance of the Pew Oceans Commission's report on the plight of the nation's oceans and resources, coupled with a set of recommendations for improving the health of the oceans

and their dependent economies. The US Commission on Ocean Policy released its report the following year. Both reports called for a national ocean policy, among their numerous recommendations, and helped spur the action begun by the Obama Administration in 2009.

As the demands on the ocean have grown beyond transportation routes and a place for food gathering, it was clear to many of us that some form of planning and coordination among government entities would be necessary in the future. It seemed obvious that to avoid conflict among uses as well as to protect ocean resources (e.g., protecting fish stocks from non-fishing activities) where existing authorities lacked jurisdiction (e.g., fishery agencies have no authority – excepting perhaps, under the Endangered Species Act – over land based activities impacting ocean resources) some form of coordinating entity was needed. Hence, the call for a National Ocean Council and/or regional ocean councils.

Both ocean reports were criticized by regional fishery council officials who felt somehow the ocean councils would meddle in fishery management. We, frankly, saw it as just the opposite.

Here was an opportunity for the regional councils to make the case for fish conservation over activities those fishery bodies had no authority over. The

ocean councils could become a "super bully pulpit" for the fishery councils to address non-fishing threats to our fish stocks. In retrospect, that was perhaps mistaken. While the regional fishery councils can be bully boys at pushing around small-boat fishermen and other fishery interests they don't like, they've always been timid when it comes to speaking up against powerful interests – such as agribusiness, hydropower, or oil and gas – and there was no reason to believe they would now use the new ocean councils to suddenly step outside of their allocation role and become advocates for conservation.

Our other nagging concern that has grown since a national ocean policy began getting traction in 2009 was that many uses that quite frankly don't belong in the ocean would be allowed to start or expand, including open-ocean finfish aquaculture and offshore drilling, to the detriment of ocean resources and traditional uses such maritime transportation and fishing. We have provided extensive comments on the issue in past *FN* columns (see, for example, Nov. 2009, "National Ocean Policy and Our Fisheries," at: www.pcffa.org/fn-nov09.htm).

Motherhood

Reviewing both the Implementation Plan and its Appendix, there is really little the fishing community can find



fault with in most of the goals set forth. Who doesn't want better seafloor mapping, better access to data, the reduction of coastal wetland loss, or protection of ocean habitats (fishermen can't do it by themselves)?

But instead of identifying specific "who's" and "how's" of accomplishing the goals set out there, the document begins looking like a bureaucratic planner's sandbox with lots of process, analysis, memorandums of understanding (MOUs), pilot and demonstration projects. Indeed, to avoid the rancor of states, many in Congress and their business patrons, the whole thing is mostly voluntary – meaning don't expect much to happen.

Where's the Beef?

With apologies to Walter Mondale, we're wondering if this Implementation Plan and its Appendix is what General McClellan would have devised had he been ordered by Lincoln to protect the oceans, instead of defending the Union. There just doesn't seem to be any beef, or muscle anyway, in the document.

One example is water quality. With the exception of a brief discussion of Clean Water Act (CWA) 310 grants, there is no mention of enforcement of existing CWA authority to improve water quality. Moreover, it completely misses the fact that estuaries (which affect ocean resources) depend on freshwater inflows. There is absolutely no discussion of enforcing the CWA for "flow impaired" waterways, yet we know that in the San Francisco Bay/Sacramento-San Joaquin Delta freshwater extractions upstream are affecting the health of the estuary and species such as chinook salmon. Earthlaw's Linda Sheehan has made this point repeatedly. The recent drought in the Midwest has had similar effects on the Mississippi River Delta. Yet nowhere is there any discussion of utilizing existing CWA authority in pursuit of improved river flows and, thus, better ocean health.

Another example is the discussion of job creation. NOAA and the regional fishery councils' aggressive promotion of individual fishing quotas (IFQs) or "catch shares" is reducing employment

in fishing through fleet consolidation. Some job losses were expected as overfishing and stock rebuilding began to be addressed, but much of the actual job loss has been excessive and unnecessary.

Added to this problem, the pay to remaining captains and crew in IFQ fisheries will be affected wherever shares are held by third parties, when approximately 25 percent of the value of the catch from captains, crewmen and the fishing community is siphoned off into the pockets of non-fishing "armchair captains," processors, NGOs, bankers, or hedge fund managers. Nowhere does the Plan address this oceans job issue, nor does it even touch on possible solutions such as development of community fishing associations (CFAs).

Just Say No

The Plan extensively discusses climate change and its closely related problem of ocean acidification. But while a lot of attention is given to "adapting" to climate change, the authors appear don't discuss its causes or prevention.

Current levels of offshore oil and gas extraction are allowed for, and new development is even anticipated under the Plan, instead of looking toward a phase-out of oil and gas extraction in the ocean and elsewhere and an aggressive phase-in of non-greenhouse gas producing renewable energy. Offshore oil and gas, of course, is not just a problem from the standpoint of climate change. Spills and seepage into the environment threaten fishery resources, as does the seismic testing utilized in offshore oil exploration.

The Plan is to be lauded in much of its discussion of aquaculture development, particularly in regard to shellfish. However, it does not draw the line at shellfish mariculture expansion in the ocean, but would permit open-ocean finfish farming, which is problematic for a variety of reasons from pollution, spread of disease and parasites into the wild, escapes, and the navigation hazards created by ocean pens and cages. Instead of calling for finfish farming in closed containers onshore where this form of aquaculture belongs, the Plan seems to endorse these operations off-

shore, for example, in its mention of the Gulf of Mexico aquaculture plans.

Show Me the Money

Another troubling part of the Implementation Plan and its schedule is lack of any discussion of how all of this is to be paid for. We're not arguing against the Plan because of money, but there needs to be an honest discussion about where the funding is going to come from, other than just CWA 319 grants. True, some things such as coordination between the states (e.g., the West Coast Governors' Agreement on Ocean Health) are not costing the federal government anything, and some of the actions don't have any substantive federal cost associated with them or are paid for from other sources, but a lot of new money will also be needed.

Both of the ocean commission reports called for the establishment of an Ocean Trust Fund to financially support oceans conservation work. That concept is not to be found in this document, yet it needs discussion if we're serious about protecting our oceans and the economies, such as fishing, that depend on ocean resources.

In fact, the document fails to even mention in its discussion of ports that Congress is refusing to turn over monies from the existing Harbor Maintenance Trust Fund (funded from a fee on goods coming into US ports) back to local ports for such things as maintenance dredging. This is particularly critical at this time for smaller, coastal fishing harbors, where we're about to lose the economic activity and jobs these ports create.

Not Ready for Prime Time

Our quibble is not with the many things the Plan mostly sets out to do, nor its goals. At present, however, it is just skeletal – and not a perfect skeleton at that. At best, it's a 90-pound wimpy weakling.

It needs money – something we've discussed in this column at length regarding fishery science. But it'll take more than money – we don't want just a pile of flab.

The Plan needs to include strong measures – even at the risk of offending



some in Congress and the Chamber of Commerce – such as enforcing existing Clean Water Act provisions. It also needs some obvious fixes, such as its current language on offshore oil and aquaculture, if this Administration is serious about climate change and the protection of our oceans. What we need is a lean ocean plan with muscle. This one is not yet there. 🐟

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What the Plan Says About Commercial Fishing

Commercial fishing is an important part of America's history and economy, and contributes healthy local food to our country. The commercial fishing community relies on healthy coastal and ocean resources, and safe access to those resources.

The National Ocean Policy Implementation Plan identifies specific actions Federal agencies will take to spur our ocean economy, strengthen security, and improve ocean health.

Commercial fishing will continue to be managed exclusively by the relevant State and Federal fisheries managers and Regional Fishery Management Councils or Commissions.

Federal agencies have committed to actions in the Implementation Plan that will benefit the commercial fishing industry, including:

- Protect, restore, or enhance 100,000 acres of wetlands, wetland-associated uplands, and high priority coastal, upland, urban, and island habitat.
- Conduct targeted research and disseminate findings to address valuable information needs related to the direct and indirect impacts of climate change, ocean acidification, and other stressors on coastal economies, and key species, habitats, and ecosystems.

The Implementation Plan also supports voluntary regional marine planning, which brings together ocean users to share information to plan how we use and sustain ocean resources. Neither the National Ocean Policy nor marine planning creates or changes regulations or authorities.

Excerpts from the Implementation Plan:

"Commercial fishermen will be better equipped to meet our Nation's growing demand for healthy seafood through improved science that supports increased sustainable fishing opportunity."

"Restoration activities provide direct economic opportunities, and healthy natural systems support jobs in industries such as tourism, recreation, and commercial fishing. Agencies will coordinate to protect, restore, and enhance wetlands, coral reefs, and other high-priority ocean, coastal, and Great Lakes habitats. Agencies will also establish a National Shellfish Initiative with commercial and restoration aquaculture communities to identify ways to both responsibly maximize the commercial value of shellfish aquaculture and achieve environmental benefits such as nutrient filtration and fish habitat."

The Appendix of the National Ocean Policy Implementation Plan lists the specific actions Federal agencies have committed to take.

The Implementation Plan and Appendix are available online at: www.whitehouse.gov/oceans.