



July 25, 2016

Ms. Betsy Nicholson
Federal Co-Lead
Northeast Regional Planning Body
55 Great Republic Drive
Gloucester, MA 01930

Mr. Grover Fugate
State Co-Lead
Rhode Island Coastal Resources Management Council
4808 Tower Hill Road
Wakefield, RI 02879-1900

Mr. Richard Getchell
Tribal Co-Lead
Aroostook Band of Micmac Indians
7 Northern Rd
Presque Isle, ME 04769-2027

Submitted Electronically via comment@neoceanplanning.org

RE: Comments on Draft Northeast Ocean Plan

Dear Ms. Nicholson, Mr. Fugate, and Mr. Getchell:

The National Ocean Policy Coalition (“Coalition”) is pleased to submit the comments herein on the draft Northeast Ocean Plan (“Plan”). The Coalition is an organization of diverse interests representing sectors and entities that support tens of millions of jobs, contribute trillions of dollars to the U.S. economy, and seek to ensure that actions under the National Ocean Policy are implemented in a manner that best benefits the National interest, including protection of the commercial and recreational value of the oceans, marine-related natural resources, and terrestrial lands of the United States.

EXECUTIVE SUMMARY

As described in detail below, the Coalition urges the Northeast Regional Planning Body (“RPB”) to develop a revised draft Plan for public comment that provides critical details and elements that are excluded from the current draft released for public comment on May 25, 2016. The need for doing so is underscored by the insufficiency of a 60-day comment period, the absence of critical details on how federal, state, tribal, and New England Fishery Management Council members of the RPB will specifically implement and execute the Plan, the omission of required supporting environmental impact analysis with alternatives, the lack of clearly identified proposed Plan performance and ecosystem health

monitoring and evaluation indicators and goals, and the regulatory implications associated with Plan implementation.

In addition to providing these critical details that have been omitted from the draft Plan but which are essential to facilitate informed public review and comment, the Coalition urges the RPB to make substantial revisions described throughout the Coalition's comments to reduce the potential for adverse impacts to result from Plan implementation. After the draft Plan has been completed and revised accordingly, the RPB should ensure that the public has an opportunity to review the revised draft and provide informed comments.

For example, the RPB should remove all proposed actions seeking to compel agency use of the Plan in their regulatory and environmental reviews, management programs, and other decision-making activities, as well as all proposed actions seeking to recommend and/or direct project proponents to use the Plan and/or Northeast Ocean Data Portal ("Portal") during the pre-application phase or during formal or informal reviews.

In so doing, the RPB should also revise the Plan to clarify that any data or information resulting from the RPB process and Plan should be used and considered by agencies as they see fit, and that agency implementation of the Plan's contents would be strictly voluntary and based on the agency's careful, independent, and transparent consideration and best judgment, and consistent with existing laws and agency regulations, not pursuant to the direction of the RPB or Plan.

For all proposed Plan actions, the RPB needs to resolve ambiguities in the current draft Plan and provide a list of every authority, statutory process, and management program that would be influenced through Plan implementation (including specific descriptions on how each authority, process, and program would be influenced). This information needs to be included in the revised draft Plan for additional public review and comment.

The Coalition also has concerns about the use and integrity of Plan-related data and information, many of which are reflected in the draft Plan as described below through RPB statements about limitations and caveats. Thus, the RPB should revise the Plan consistent with the recommendations that follow to help build public confidence that Plan-related data and information will not be used in a manner that adversely impacts user groups based upon agency reliance on incomplete or inaccurate data and information sources.

In addition, the Coalition continues to stress the importance of accurately depicting the region's marine-related resources as well as existing and potential future activities. In that regard, the Coalition urges the RPB to ensure that the draft Plan and all related products and data sources clearly and conspicuously identify and describe all resources and existing and potential future activities that are not fully or at all reflected in Plan-related maps and data, including but not limited to recreational, lobster, and bluefish fisheries and conventional energy resources.

To reduce unnecessary regulatory burdens, limit the potential for unintended consequences, and promote science-based, fiscally prudent, and legally sound decisions, the Coalition also urges any regional planning activities to revert from the RPB to the Northeast Regional Ocean Council ("NROC") and for any Plan to sunset after five years unless certain criteria are met, with opportunities for commercial and recreational interests to participate directly on NROC to provide advice on Plan implementation. In addition, a revised Plan should provide clear "opt-out" provisions for agencies and stakeholders who find that Plan elements do not allow for sound legal, scientific, and economic consideration of evolving regional ocean uses and priorities, as well as specify a process whereby parties

who find that Plan implementation activities are inappropriate or injecting unnecessary risk to otherwise lawful activities can raise grievances and have them addressed.

Moreover, a revised Plan should remove proposed actions mandating the future identification of “important ecological areas” and clarify that the Plan does not mandate the implementation of ecosystem-based management (EBM) and will not seek to advance EBM faster than the state of science evolves. The revised Plan should also disclose resources used in furtherance of RPB/Plan development activities since 2012 and describe the resources expected to be necessary to support any proposed future activities.

The Coalition also urges the RPB to revise the draft Plan to include socio-political science and research priorities to assess the legal and regulatory implications of implementing the Plan, as well as the current state of science related to ecosystem-based management and the economic and societal contributions of the region’s existing and potential future human use activities. It should also incorporate human use and socioeconomic indicators into Plan performance measures and ecosystem health monitoring indicators.

INSUFFICIENT PUBLIC COMMENT PERIOD

At the outset, as the Coalition stated in its June 28, 2016 correspondence to the RPB seeking a suspension and extension of the public comment period,¹ a 60-day comment period is insufficient to provide informed comments on the release of the first-of-its-kind 198-page regional marine plan -- referred to by the RPB as a “trailblazing effort” that will serve as a “guidepost for those plans that follow”² -- which was released simultaneously with a 173-page ecological and economic baseline assessment and more than 3,000 maps of marine life and human use data that relate directly to Plan implementation.³

For comparison’s sake, the Commonwealth of Massachusetts’ comment period for its ocean plan that only applied to one state featured four public hearings subject to a 30-day advance public notice, after which time an additional 60 days of public comment was provided. In addition, the State of Rhode Island provided 48 days of public comment on its plan, after having provided earlier public comment periods for individual plan chapters.⁴

Moreover, the regulated user group community and others are being asked to provide comments without critical details on how federal, state, tribal, and New England Fishery Management Council members of the RPB specifically intend to implement and execute the Plan.

For example, in announcing the release of the draft Plan the RPB noted that “[t]he specific manner and mechanism a Federal agency uses to implement the final NE Ocean Plan will depend upon that agency’s mission, authorities, and activities in the marine environment,” and that federal RPB members “will publicly describe the administrative mechanisms they will use to implement the NE Ocean Plan when the NE RPB submits the Plan to the [National Ocean Council] for review and concurrence.”

In addition, the RPB noted that the RPB states, tribal members, and New England Fishery Management Council “are in the process of describing how they can use the NE Ocean Plan to guide and inform their activities and decisions.”⁵

Informed comments on the draft Plan cannot be provided in the absence of such information. The importance of the omitted information is underscored by the fact that the comment period involves the review of a Plan, which, upon its approval, would be implemented by six states, six federally-recognized tribes, eight federal agencies/departments (and eight component agencies), and the New England Fishery Management Council.

By moving ahead without adequate opportunity to provide informed comments, there will be an exponentially higher risk of unintended consequences and adverse effects resulting from Plan implementation. In so doing, the National Ocean Council's standards for "informed public participation" and transparency included in its guidance on marine planning will go unmet.⁶ Furthermore, many actions included in the draft Plan do not include an associated timeline for implementation and/or lack clarity on which specific agencies would be involved with carrying out the applicable activity.

In addition, the National Ocean Policy requires the preparation and release for public comment of supporting environmental impact analysis (with alternatives) simultaneously with the release of the draft Plan.⁷ By not preparing and releasing the environmental impact analysis with alternatives along with the draft Plan for public review and comment, the RPB has failed to meet one of the National Ocean Policy's essential elements of the marine planning process, and in so doing, the Plan would be ineligible for National Ocean Council certification.⁸

Therefore, **the Coalition urges the RPB to revise the draft Plan to provide these critical details and elements (as well as requested revisions discussed below), and to then release the revised draft Plan for a minimum 90 days of public comment. In the event that the RPB does not prepare a revised draft Plan for public comment, the Coalition urges the RPB to incorporate all suggested revisions contained herein.**

REGULATORY IMPLICATIONS

Pursuant to the National Ocean Policy foundational documents, RPB products including marine plans are to be implemented by federal agencies to the maximum extent, including through regulations where necessary.⁹

As further highlighted in the RPB's official announcement of the draft Plan's release (and reflected throughout the draft Plan as discussed below), "Federal NE RPB members with regulatory responsibilities will incorporate the final NE Ocean Plan into their pre-planning, planning, and permitting to guide and inform Federal agency internal and external permitting decisions, environmental compliance, resource management plans, and other actions taken pursuant to existing statutory and regulatory authorities," and those agencies "will ensure their scientists, managers, decision-makers, and analysts align their actions with the NE Ocean Plan to the fullest extent possible under existing statutory and regulatory authorities."¹⁰

The draft Plan recognizes the role that a variety of laws play in decision-making related to ocean resource use, that existing processes already "require agencies to continually coordinate with each other," "federal agencies are required under existing law to assess the potential impacts of proposed offshore activities to recreation," existing federal laws like the National Environmental Policy Act provide opportunities for federal and state coordination, and all Northeast states provide opportunities for early coordination as a general practice and already participate in joint federal-state coordination efforts.¹¹

Yet, it conveys that more needs to be done to “help the region with its management decisions” by proposing actions to “guide and inform” RPB agency regulatory and management decision activities, among other things stating that regional ocean planning is “intended to provide a better mechanism for application of...existing laws and authorities.”¹² Unfortunately, neither the RPB nor any other governance institution conducted a comprehensive assessment of the strengths and weaknesses of existing coordination processes. Thus, it is unclear what problems the RPB is attempting to solve, and there are few ways for the public to have any confidence that the Plan is the best mechanism to address any deficiencies in coordination.

Nevertheless, in attempting to improve coordination, among other things, the draft Plan refers to use of the Plan and related products to “clarify[] the applicable authorities,” “support ocean management decisions,” engage in “regulatory and management activities,” “ensure coordination of Plan information...into pertinent agency decisions,” “enhance the decision-making process,” assist with the preliminary identification of potential conflicts or adverse impacts on resources, and identify opportunities for joint federal-state National Environmental Policy Act (NEPA) reviews, among other things.¹³

Notably, while NOAA’s official release of the draft Plan stated that “nor does the draft Northeast Ocean Plan...augment or subtract from any entity’s existing statutory or other authorities,”¹⁴ NOAA shortly thereafter said just the opposite in its draft Ocean Noise Strategy Roadmap, which stated that “[m]arine planning seeks to augment statutorily-directed consultation and environmental impact assessment processes that are standardly used to address noise impacts.”¹⁵

The draft Plan also notes that “agencies increasingly need to work together across [a] complicated array of challenges and laws” to “effectively and efficiently fulfill their obligations,” adding that such cooperation requires access to regional-scale data and information and related products, guidance for using those products to inform decisions, and processes for improving collaboration and communication, and that the draft Plan describes how federal RPB members will incorporate Plan data and information into “performing and accomplishing the critical tasks involved in managing individual ocean resources and activities...”¹⁶

Elsewhere, it notes that actions included in the draft Plan will “support the identification and avoidance of potential conflicts and resource impacts” and “help federal agencies identify additional information or scientific research that may be necessary or warranted to inform decisions.”¹⁷

As the Coalition has previously stated, better coordination across governmental agencies could yield positive results. At the same time, and as the draft Plan acknowledges, a number of federal laws are in place that ensure such coordination. Utilization of the RPB, the marine planning process, and/or the Plan itself and related products to influence existing statutorily-authorized entities and the application of federal laws and authorities introduces significant risks and uncertainty for regulated entities and the jobs and communities they support. As noted above, any attempts to improve potential shortcomings in interagency collaboration and coordination must be based on a thorough and unbiased examination of existing laws and regulatory and planning processes, and any potential solutions must be designed to address the findings of such analyses and implemented in a manner that is consistent with legislative text and intent.

These concerns are heightened by the Plan’s lack of specificity as to many of the proposed actions to be taken and the agencies that would be involved. The potential for such uncertainty is highlighted in part by the draft Plan’s statement that the federal environmental and regulatory laws included in the overview on the existing federal governance framework for ocean resource and human use protection

and management “is not an exhaustive list of all federal statutes that may apply in every instance, but it focuses on those that are most relevant to this Plan...”¹⁸

Similarly, the draft Plan notes that it “does not describe every management activity undertaken by federal agencies,” but rather addresses “the most pertinent and applicable programs...”¹⁹ Throughout the document, the draft Plan includes qualifiers such as “to the extent practicable” and phrases such as “this could include” and “some specific examples include.”²⁰

In other words, it is possible that the Plan may be used to influence other laws and management programs that are not listed or otherwise addressed in the draft, and it is unclear the extent to which agencies intend to implement the actions proposed in the Plan, many of which are broadly and vaguely written. The public, especially regulated entities, must have clear information on if and how their uses of the ocean would be affected by the Plan; such transparency and accountability is essential for any action linked to government agencies and how they impact lives and economies.

To address these deficiencies and concerns, **consistent with the Coalition’s previous requests, the RPB should revise the Plan to remove all actions seeking to compel agency use of the Plan in their regulatory and environmental reviews and management programs.** Instead, **any data or information resulting from the RPB process and Plan should be used and considered by agencies as they see fit, with agency implementation of any ocean plan contents strictly voluntary and based on the agency’s careful, independent, and transparent consideration and best judgment, and consistent with existing applicable laws and regulations, not pursuant to the direction of the RPB or Plan.**

For all Plan actions, in addition to detailing every proposed activity and potential use of the Plan, the RPB needs to resolve ambiguities associated with the draft Plan and provide a list of every authority, statutory process, and management program that would be influenced through Plan implementation (including specific descriptions on how each authority, process, and program would be influenced) and include the document in the revised draft Plan for public review and comment. The National Ocean Council’s “Legal Authorities Relating to the Implementation of Coastal and Marine Spatial Planning” referenced in the draft Plan²¹ is merely a non-exhaustive list of various statutes that includes basic information about laws that could be relevant to marine planning and is thus insufficient to meet this objective.

PLAN-RELATED DATA AND ASSOCIATED LIMITATIONS

The Coalition is very concerned about the use and integrity of Plan-related data and information, including referenced data on the Portal, that RPB agencies “will use...to support ocean management decisions.”²²

The draft Plan acknowledges “limitations” associated with data products it references, and notes that “there are still likely to be many other sources of information” beyond the Portal that are “applicable to any regulatory or management question,” that the Portal is “not exhaustive of all topics,” that “early consultation with appropriate agencies is always recommended to determine data and information needs,”²³ and that many large-scale activities will require the additional collection of site-specific information for impact assessment and monitoring”²⁴ beyond what is included on the Portal.

In discussing referenced physical and biological habitat maps, the draft Plan also states that “it is intended that these data are used in conjunction with additional sources of information” and cites a

“need to develop physical and biological habitat map products at fine temporal scales...”²⁵ Such caveats and qualifying statements appear in other contexts as well, including for marine life,²⁶ various human use activities,²⁷ and historic resources.²⁸

Yet, Plan implementation would require agencies and others to use the referenced maps to, among other things, influence regulatory and environmental reviews of a variety of ocean resources and uses, with the draft Plan noting that “...this Plan and the Portal include a range of maps of marine life, habitat areas, cultural resources, transportation, fishing, and other human uses to be considered when new energy or other infrastructure developments are proposed.”²⁹ The draft Plan further states that the use of Plan and Portal data and information in pre-application review will enable the identification of “what additional project- and site-specific information will be required under NEPA and other relevant authorities.”³⁰

In the absence of specific mechanisms prescribed in the Plan to ensure otherwise, there is no assurance that agencies will not rely on or otherwise utilize Plan-related data and information in a manner that adversely impacts user groups based on reliance on incomplete or inaccurate sources.

Unresolved questions about the compliance of Plan and Portal data with relevant data quality laws, protocols, and standards³¹ -- and the proposed use of such data and information to “inform[] application of triggered laws” and “identif[y] additional information + science needs”³² -- also raise troubling questions about whether projects and/or human use activities could be unnecessarily delayed, restricted, or prohibited based on the use of incomplete or inaccurate data and information. In addition, the draft Plan contains no mechanism that would ensure agency decision-makers consult other sources rather than rely on the Plan or Plan-related data in carrying out their responsibilities.

For example, many Plan-referenced maps on the Portal do not include direct links to metadata containing data quality information or lack certain data quality information (e.g. completeness reports) where direct links are provided.³³ In addition, while the draft Plan notes that the predictive capability of models developed to depict marine life and habitat that are the subject of multiple proposed Plan actions can be “improve[d],”³⁴ the draft Plan and Portal do not sufficiently address their predictive nature and related challenges. Without adequate discussion of the caution that should be used in interpreting predictive modeling products in both the Plan and the Portal, an unacceptably high risk exists for the misapplication and/or misinterpretation of the products in agency decision-making.

To the extent that such data and related actions remain in the Plan and Plan-referenced sources, the RPB should review all Plan and Plan-referenced data that is housed on the Portal to ensure compliance with all relevant data quality laws, standards, and protocols.³⁵ The RPB should then revise the draft Plan to remove any references to data that is determined to not be compliant or complete. In addition, the RPB should ensure that every Portal map that is referenced in the Plan includes a direct link to the metadata and data quality reporting information.

The RPB should also revise the draft Plan to include specific mechanisms to ensure that agencies will not use the Plan and related products (including but not limited to the Portal) as an exclusive source of data and information in their decision-making activities, include mechanisms that will ensure agencies use formal Administrative Procedure Act procedures to clearly, publicly, and transparently disclose and seek comment on any use of Plan-related data in their decision-making activities, and provide assurances that all relevant agencies are aware of all data limitations and caveats.

Furthermore, as to the proposed use of the Plan and/or Portal to inform or otherwise influence NEPA reviews, it is important to note that NEPA requires federal agencies to individually analyze the impacts

of proposed federal actions (and alternatives) for their impacts on the human environment by taking a “hard look” at potential environmental consequences.³⁶ For example, as part of the NEPA analysis of the particular need, impacts, and alternatives associated with the proposed activity, the proposed action under consideration must be uniquely assessed to determine whether it would significantly affect the quality of the human environment, including through an analysis of “several contexts such as society as a whole..., the affected region, the affected interests, and the locality” and of multiple factors relating to the intensity of the specific action being proposed.³⁷

Therefore, to ensure that NEPA reviews are conducted in accordance with legal requirements and appropriately evaluate potential impacts specific and relevant to the proposed action under review, the draft Plan must also be revised to include language acknowledging that each NEPA review is done to evaluate impacts of various alternatives associated with a specific action, and that databases associated with the Plan or Portal may or may not be relevant to assessing those impacts.

In addition, **the RPB should ensure that a revised draft Plan and the Portal thoroughly and conspicuously address the uncertainties and limitations of the marine life and habitat and human use and other maps referenced in the Plan, including the challenges associated with their application and interpretation and all appropriate caveats for their potential use.**

Lastly, **the RPB should ensure that the Plan and all related products and data sources clearly and conspicuously address all resources and existing and potential future activities that are not fully or at all reflected in Plan-related maps and data, including but not limited to recreational, lobster, and bluefish fisheries and conventional energy resources, as well as revise the draft Plan to include analyses of trade-offs and opportunity costs for those activities that may be blocked, restricted, or otherwise impacted by Plan implementation.**

PROPOSED PLAN ACTIONS

The draft Plan proposes a series of actions to “guide and inform” agency regulatory and management decisions related to the following ten resources and activities: marine life and habitat, cultural resources, marine transportation, national security, commercial and recreational fishing, recreation, energy and infrastructure, aquaculture, offshore sand resources, and restoration, with an emphasis on management programs and 14 federal laws “most pertinent” to Plan implementation.³⁸

In doing so, the draft Plan generally focuses on actions related to Portal data maintenance, updates, and development, actions that inform regulatory and management decisions, and interagency coordination.

Significantly, actions to “guide and inform” agency decisions can have far-reaching and substantial regulatory impacts, particularly in this case where federal agencies are committing to implement the Plan in their pre-planning, planning, and permitting activities. This dynamic is underscored by a recent Government Accountability Office statement which noted that “[o]ne of the main purposes of guidance is to explain and help regulated parties comply with agency regulations,” and that guidance documents “can have a significant effect on regulated entities and the public, both because of agencies’ reliance on large volumes of guidance documents and because the guidance can prompt changes in the behavior of regulated parties and the general public.”³⁹

Thus, the Coalition has significant concerns about the proposed use of Plan-referenced marine life and habitat, human use, and other data to influence decision-making under the non-exhaustive list of

statutes and management activities referenced in the draft Plan. If the RPB is to truly be an entity that “does not create regulations, supersede current regulations, or modify established agency missions, jurisdiction, or authority,”⁴⁰ then decisions about whether and how to incorporate data and information into agency decision-making activities should emanate from agencies themselves through existing and statutorily-authorized processes, not through the RPB process.

Rather than require or seek to compel agencies to incorporate non-statutorily-authorized and not fully-defined Plan and related products into their decision-making and environmental or regulatory review activities, any referenced data and information should thus only be used by agencies as they see fit, in accordance with each agency’s careful, independent, transparent, and legally sound consideration and best judgment. The need for such an approach is underscored by the RPB’s acknowledgements throughout the Plan of limitations and caveats associated with Plan and Portal data.

Therefore, **the draft Plan should be revised to remove all actions seeking to compel use of the Plan to guide, inform, or otherwise influence agency activity, including but not limited to environmental and regulatory reviews and management practices. Instead, the Plan should clarify that determinations on whether and how to use data from external sources, including but not limited to the Portal, will be made by individual agencies.**

To the extent that any such references remain in the Plan, the RPB should include a clear commitment stating that agencies will transparently disclose and seek comment on the use and application of any Plan-related data and information in their decision-making activities to project applicants, the public, and all relevant entities involved in the particular decision, including the public disclosure of all caveats and limitations association with any Plan and Plan-related products being utilized, and specify that all Plan and Portal data will be annually reviewed and updated as new peer-reviewed data is available that complies with all relevant federal and state data quality laws, standards, and protocols.⁴¹

The Coalition also urges the RPB to revise the draft Plan to remove language directing or seeking to compel project proponent use of the Plan and/or Portal during the pre-application phase or formal or informal reviews.

To the extent that any such references remain in the Plan, the Coalition urges the RPB to revise the draft Plan to clarify the circumstances that would trigger the applicable proposed action for a project proponent, exactly how, when, and under what circumstances project proponents would be notified of the applicable recommendation or directive, what if any adverse impacts would result for project proponents that do not use the Plan and/or Portal in the manner recommended or directed pursuant to the Plan, and the legal justification (if any) for enforcing such a recommendation or directive.

As to proposed actions involving use of the Plan and/or Portal to “advance” ecosystem-based management and identify “important ecological areas” (IEAs),⁴² **the Coalition urges the RPB not to mandate the identification and potential application of IEAs and not to seek to compel implementation of EBM faster than the state of the science evolves. To the degree that the RPB nonetheless includes such actions in the Plan, the draft Plan should be revised as specified below in the “Draft Important Ecological Area Framework” and “Ecosystem-Based Management” sections.**

CHAPTER 4: PLAN IMPLEMENTATION

Intergovernmental Coordination

The draft Plan requires that RPB agencies implement best practices pertaining to coordination between federal agencies and among federal agencies and tribes and federal agencies and states.⁴³ It says that the proposed best practices will lead to a broad, shared understanding of how relevant information may be used early in the review of proposed projects/activities, clear and efficient direction for applicants, an initial understanding of the proposed project and potential issues, marine life/habitat impacts, compatibility concerns with existing human activities, informed stakeholder engagement, and coordinated federal/state/tribal review as appropriate.⁴⁴

According to the draft Plan, the proposed intergovernmental coordination best practices referred to as “flexible but consistent guidance” will ensure that Plan actions to implement the RPB’s healthy ocean ecosystem and sustainable ocean use goals “are understood and coordinated” among federal, tribal, and state agencies and represent an opportunity for federal RPB members to “enhance the decision-making process.”⁴⁵

Specifically, among other things it says that such coordination can clarify applicable authorities and related information requirements, including through the production of NEPA documents, and provide an initial identification of potential adverse impacts on resources or potential conflicts with human activities, marine life, and historic and cultural resources. The draft Plan adds that one outcome of agency coordination is “a common understanding of what data are available or missing and needed, and which stakeholders need to be consulted...”⁴⁶

Defining intergovernmental coordination as “gathering, sharing, and using information, and conducting environmental review-related meetings and procedures associated with planning, leasing, and regulatory, research, or other ocean management activities,” the draft Plan provides a non-exhaustive list of 19 statutes for which it says best practices for coordination “may apply” (including NEPA, CZMA, MSA, OCSLA, ESA, MMPA, CWA, and CAA, among others) and notes that intergovernmental coordination may include informal pre-application discussions or take place as initial or ongoing components during formal reviews.⁴⁷

As the Coalition has previously communicated, better coordination across governmental agencies could yield positive results. However, the Coalition opposes use of the Plan to impose new requirements or formal or informal obligations pertaining to regulatory review and consultation processes including under NEPA and other laws, including through the following “best practices” identified in the draft Plan:⁴⁸

- During early coordination, to extent practicable lead federal agency should develop project materials informed by data/information from sources including Plan, Portal, and stakeholders, and participating RPB agencies should provide clear direction about information needed for formal review, where possible identify measures to avoid/minimize adverse resource/use impacts, and articulate issues likely to be addressed in review under NEPA and other laws
- RPB agencies/project proponents will use Plan and Portal data/information to extent practicable as baseline information for systematic, interdisciplinary approach to NEPA and regulatory review
- Portal and Plan data and information will be used in pre-application review to extent practicable to support/supplement initial characterization of relevant conditions, including identification of

potential impacts to marine life/habitat and cultural resources and initial identification of potential interactions or compatibility concerns with existing human activities

- RPB agencies should discuss with project proponent a systematic process to identify and engage potentially affected stakeholders (lead NEPA review agency should address in scoping process), which includes but may not be limited to the following:
 - Project proponents identifying and seeking to engage potentially affected stakeholders and incorporate stakeholder data and information in project materials
 - When potential cumulative effects of proposed project/activity may have community-level effects, project proponents identifying and seeking to engage relevant coastal communities and incorporating relevant data/information in project materials
 - Project proponents seeking to identify, engage, and incorporate information from stakeholders before filing a permit application or formally initiating review process
 - RPB agencies that perform ocean research/data collection developing protocol to ensure effective advance communication with stakeholders to avoid/minimize conflicts

Such activities must originate with the applicable agencies themselves, pursuant to their statutory authority, not the RPB.

Therefore, **the RPB should revise the draft Plan's intergovernmental coordination section to remove language requiring or seeking to compel new formal or informal obligations for project proponents or agencies, and clarify that information obtained through the RPB process should be used and considered by agencies as they see fit, with agency implementation of any Plan content strictly voluntary and based on the agency's careful, independent, and transparent consideration and best judgment, and consistent with existing applicable laws and regulations, including those establishing public review and comment procedures. In addition, RPB activities intended to enhance interagency coordination must address all existing and potential future uses, including but not limited to shipping, commercial and recreational fishing, boating, conventional energy, tugs and barges, and ports.**

These revisions will help ensure legal and regulatory certainty and maximum flexibility in how proponents, agencies, and others engage in coordination for specific projects. The need for the revisions is underscored by the discussion above highlighting that, to be legally compliant, NEPA analysis requires a customized "hard look" at individual projects and their potential impacts. Thus, standardized approaches may not meet project needs or be legally defensible. Furthermore, the Council on Environmental Quality, not the RPB, is responsible for establishing NEPA guidelines. Thus, as a matter of fairness, transparency, efficiency, and law, the RPB should not use the Plan or planning process in a manner that would lead to changes in the rules for project proponents.

To the extent that the actions of project proponents are addressed, the draft Plan should be revised to clearly state that project proponents will not be penalized in any way for not engaging in Plan-related actions and that such actions merely reflect non-binding guidance. The revised Plan should also clearly specify when and how any such guidance would be triggered, how project proponents would be notified, the specific actions contemplated by the guidance, and how any resulting products would be used.

In addition, just as when agencies utilize the best scientific information available from sources outside the RPB process, to the degree that any particular agency seeks to implement Plan data, guidance, or other content in conducting reviews under NEPA or any other law, it is vital that such implementation be transparent and well-understood by the regulated community.

Therefore, **the RPB should revise the Plan to clearly state how Plan content may or may not be used by agencies, including by clarifying when and how agencies intend to engage in early coordination, what specific project materials agencies would develop based on Plan-related data and information, how agencies would use Plan-related data and information as baseline information in NEPA and regulatory reviews, and how agencies would account for limitations and caveats associated with Plan-related data and information in pre-application and other reviews. In addition, for these and any other actions, the Plan should clarify that any agency that uses or otherwise implements Plan content in their activities will clearly communicate precisely how they are doing so and what decisions or processes will be influenced, in accordance with formal notification procedures under federal and state law, including the Administrative Procedure Act (APA).**

As to proposed federal-state coordination actions, as the draft Plan notes, existing federal laws such as NEPA provide opportunities for federal and state coordination where there is federal or state review of a proposed project or activity. States in the Northeast also already provide opportunities for early coordination as a general practice and participate in joint federal-state coordination efforts.⁴⁹

At the same time, the draft Plan notes that for projects that may require a detailed NEPA review, lead federal agencies should work with state(s) to identify opportunities for a coordinated approach to NEPA and state review. For projects that may impact fishery resources, fishing activities, or fishing communities, the draft Plan further states that engaging states through fishery management council/Atlantic States Marine Fisheries Commission members may also help facilitate coordinated review.⁵⁰

The draft Plan also notes that the RPB identified Coastal Zone Management Act (CZMA)-related opportunities for federal-state coordination: enhancing federal notice to states, establishing a regional geographic location description (GLD) for CZMA federal consistency review purposes, and identifying opportunities for more efficient review of certain federal activities.⁵¹

For the regional GLD option, the draft Plan notes that the intent would be to describe how a state and NOAA could use the Plan and Portal to help demonstrate causal connections between proposed federal activities and reasonably foreseeable effects on state coastal uses or resources (with the goal being establishment of a GLD for CZMA federal consistency review purposes for certain specified federal license or permit activities).⁵²

The identification of opportunities for more efficient review of certain federal activities would involve the development of general consistency determinations or concurrences to exclude some federal actions from CZMA reviews, establish thresholds or conditions for federal consistency review, and determine if timeframes are necessary for any general consistency determination or concurrence.⁵³

The draft Plan notes that the RPB has agreed to establish a work group to further explore the latter two options during Plan implementation. In doing so, it notes that further exploration of opportunities for more efficient review of certain federal activities by an RPB work group would focus on preliminarily identified activities undertaken by FEMA, the Coast Guard, and Navy, with the RPB recognizing that not all of those activities may be addressed in any future agreements, different thresholds for reinitiating a CZMA federal consistency review may apply for different states, and state decisions on the topic may differ from state to state.⁵⁴

Given that the Plan's development and implementation have not been authorized or funded by Congress, the Coalition is troubled by the proposal to use the Northeast Ocean Plan and planning effort to influence the CZMA review process (or any other statutory process) and urges the RPB not to do so.

As the statute intended, CZM plans are state-specific, with each such plan guided by purposes and a history unique to that particular state and which may or may not align with the interests of the RPB. Using the RPB's ocean planning effort to influence CZMA activities could thus conflict or otherwise interfere with state CZMA work carried out under well-established law and processes.

As to the potential action to use the Plan to establish a GLD for CZMA federal consistency purposes for certain federal license or permit activities, there are significant questions about whether state application of CZMA in a manner that could block activity in federal waters far offshore and beyond their coastal zone is consistent with statutory intent. Utilizing the RPB process to encourage or memorialize such actions on a regional scale would thus raise similar and substantial legal issues and should be avoided.

The Coalition urges the RPB to revise the draft Plan to remove all references to proposed actions designed to influence CZMA implementation. If the RPB nevertheless pursues actions to influence CZMA activities through establishment of a GLD or the identification of opportunities for more efficient reviews of federal activities, the RPB should revise the draft Plan to:

- **Specify that any such efforts must respect and ensure consistency with state policies and programs and all applicable federal laws and accommodate variations in policy choices among states in the region**
- **Clarify that any attempts to generate administrative efficiencies by garnering state and federal support for the application of general consistency or similar provisions in lieu of formal consistency review will be based on transparent criteria that does not at the outset exclude any particular activity from consideration**
- **Specify that any such efforts will utilize data and information that complies with all relevant federal and state data and information quality laws, standards, and protocols⁵⁵**
- **Clarify that any proposed CZMA-related actions or related work group findings will not be implemented or otherwise acted on before having been vetted through formal public notice and comment reviews in conjunction with future public engagement efforts on potential Plan revisions**

Plan Implementation Responsibilities

The draft Plan proposes the RPB's continued existence. In addition to providing oversight on activities like stakeholder engagement and management of work groups (continuing public engagement "within the bounds of available resources"), the Plan proposes that the RPB meet at least annually or as needed to consider whether Plan goals are being met and actions conducted, discuss the need for future changes to the Plan, oversee development of plan performance and ecosystem health monitoring and evaluation tools, and address science and research priorities included in the final Plan.

The Coalition urges the RPB to revise the draft Plan to clarify that regional efforts for New England ocean and coastal matters will return to the exclusive purview of the Northeast Regional Council on the Ocean ("NROC").

The establishment of the RPB and its subsequent activities have created a new entity and process with which regulated industries must contend that has already created significant uncertainty. The RPB's continuation will only add to the uncertainty associated with the development and implementation of the Plan. Given its existence as a state-federal partnership since 2005, extensive experience as an

institution with Northeast ocean and coastal issues, and wider recognition among user group and stakeholder communities, NROC is better equipped to address any necessary ocean and coastal issues in the region. In addition, NROC serving as the exclusive forum to address ocean and coastal issues will ensure that there is no further duplication of efforts and will streamline engagement activities for user groups and stakeholders and the challenges they face in engaging a multitude of entities.

Furthermore, if the RPB is not a regulatory entity and does not serve regulatory purposes, but rather is merely a coordinating entity, there is no reason why NROC cannot assume the functions of the RPB going forward.

If the RPB nonetheless continues its existence following Plan finalization, **the Coalition urges the RPB to revise the draft Plan to clarify that a formal stakeholder advisory committee including commercial and recreational user groups will be established pursuant to the Federal Advisory Committee Act to interact with and provide advice to the RPB on Plan implementation. In the event that NROC takes over the RPB's responsibilities for Plan implementation, the RPB should revise the draft Plan to clarify that commercial and recreational interests will be provided with a meaningful opportunity to participate directly on NROC.**

In addition, the draft Plan notes that Plan updates would occur as determined necessary by RPB co-leads and involve public notice, while Plan amendments would occur at least once every five years, include public notice and discussion, and comply with applicable federal administrative procedures.

As to the proposed Plan review at least once every five years, it is important to (1) establish benchmarks with minimum thresholds for Plan continuation, and (2) ensure that any Plan review includes an opportunity for public discussion as to whether the Plan should end or continue.

The Coalition thus urges the RPB to revise the draft Plan to clarify that the Plan will "sunset" after five years unless the following criteria are met: consensus stakeholder and congressional support for Plan continuation, budget transparency regarding resources previously expended and proposed to be expended in furtherance of Plan implementation, clear and specific proposed Plan actions that include timelines, agencies involved, and details on how each action would be implemented, and consensus agency and public agreement on monitoring and evaluation indicators and goals for assessing future Plan performance and ecosystem health. The revised Plan should further clarify that, in the event such criteria are met, a decision to continue the Plan would not be automatic, but instead subject to the outcome of extensive user group and public discussion and feedback.

Among other things, the draft Plan also proposes the RPB's development of an integrated science and research agenda and Portal Working Group short-term management of the Portal, with the RPB/RPB agencies maintaining and updating priority maps and data over the long-term.⁵⁶

Particularly in light of current federal budget constraints, **the RPB should specify that any Plan-related development of an integrated regional science and research agenda will reflect the mission and objectives of the relevant statutory federal and state agency(ies) and be consistent with congressional and state legislative intent associated with any appropriated funds that would be allocated to implementation of such an agenda.**

As to resources, the draft Plan notes that the RPB "recognizes that resources (through in-kind capacity and funding, as was the case during the development of the Plan) are necessary to implement the Plan," and that "a portion of this need can be met through continued federal, tribal, and state participation in the RPB." It adds that resources will be required to maintain and update the Portal and make future

Plan amendments or updates, that “[f]uture availability of resources...relates directly to the ability to maintain the value of the Plan for all RPB entities...” and that Plan oversight responsibilities assume continued support from the NROC and federal in-kind resources.⁵⁷

In that regard, the draft Plan notes that the RPB “will continue to seek opportunities to leverage agency programs, activities, and agency in-kind capacity to support the Portal and other implementation activities,” with seeking stable funding resources for the Portal being an early priority in 2017. It further states that there are funds available through NROC for roughly the first year of Plan implementation.⁵⁸

However, it also notes that one factor in determining the feasibility of incorporating other marine life products that would fill priority data gaps by 2017 will be the ability to leverage the work of agencies or partners, “since associated costs could be significant,” and that data for projects conducted as part of the Plan process or that result from addressing Plan research priorities will be updated “as future resources (funding and/or capacity) allow.”⁵⁹

The current budgetary environment and fiscal constraints facing the nation continue to create increased competition for scarce federal resources, and the development and implementation of activities proposed in the draft Plan will require significant taxpayer dollars. Given resource constraints and the potential diversion of existing resources away from activities that are essential to the ability of businesses to function and the economy and local communities to thrive, to inform public feedback, the Coalition continues to urge the RPB to clearly communicate to the public the projected costs and funding sources associated with all proposed options.

Therefore, **the Coalition urges the RPB to revise the draft Plan to disclose the resources (in-kind and otherwise) that have been applied to RPB/Plan activities since the RPB’s establishment in 2012, as well as its estimate of the resources necessary to continue RPB and Plan-related activities going forward.** This information is critical to providing the public with an opportunity to provide informed comments on the proposed continuation of the RPB and future Plan-related actions.

Lastly, the draft Plan notes that RPB federal, state, and tribal co-chairs would “continue to provide immediate oversight,” including by “seeking to resolve disputes among RPB members,”⁶⁰ while the RPB’s Charter outlines a process for resolving disputes when an RPB member(s) expresses disagreement on a proposed course of action during the planning process.⁶¹ However, there is no proposed mechanism that would provide agencies and stakeholders with an opportunity to register (and have addressed) their complaints and objections as they arise with regard to Plan implementation activities. Furthermore, in addition to making clear that federal agencies will be required to implement the Plan, the RPB has not proposed any process whereby agencies and stakeholders can “opt-out” of Plan implementation activities as circumstances may warrant.

Given the likelihood that Plan implementation will lead to both foreseen and unforeseen problems that need to be resolved, **the Coalition urges the RPB to revise the Plan to provide clear “opt-out” provisions for agencies and stakeholders who find that Plan elements do not allow for sound legal, scientific, and economic consideration of evolving regional ocean uses and priorities, and to specify a process whereby parties who find that Plan implementation activities are inappropriate or injecting unnecessary risk to otherwise lawful activities can raise grievances and have them addressed.**

Plan Performance and Ecosystem Health Monitoring and Evaluation

Any Plan put forth to achieve broad-scale changes in how agencies manage human uses of ocean resources across regional scales must have clear, measurable objectives in place at the outset that

capture both ecological and economic goals. Rather than providing performance metrics in the draft Plan, the RPB proposes a series of actions related to monitoring and evaluation of Plan performance and ecosystem health, including RPB development and implementation of Plan performance evaluation and monitoring (forming a work group in late 2016 following Plan finalization) and application of the Ocean Health Index tool to the Northeast (with implementation throughout 2017 and initial results in early 2018, contingent on budget and capacity, and integration with the Integrated Sentinel Monitoring Network).⁶²

As the draft Plan notes, “it can be difficult (because of data limitations, complexity of understanding cause-and-effect relationships, and changes in conditions outside the control of a particular management effort) to quantify Plan performance.”⁶³ The same limitations can apply to qualitative evaluations. As the draft Plan recognized, “context and evaluation of cause-and-effect are critical factors” in interpreting the results of any monitoring effort.⁶⁴

The Coalition agrees that public discussion and input are necessary throughout Plan performance monitoring, including the identification of indicators and the review and discussion of subsequent indicator results.⁶⁵

As to plan performance monitoring, it is vital that there be proven mechanisms to gauge how the ability of commercial and recreational interests to perform activities in the region has or has not been (or might be) impacted as a result of Plan implementation.

With regard to ecosystem health monitoring, socioeconomic indicators must be included as well, with decisions about the application of ocean health indicators made by individual agencies rather than by the RPB. As to the Ocean Health Index (OHI), given that it has not yet been used in a regulatory context, it seems premature to rely on such a monitoring mechanism in this instance. The Coalition notes that the OHI was developed to communicate “the state of the world’s ocean” as determined by the achievement of goals established by a group of scientists, economists, and sociologists,⁶⁶ and that agencies should instead be measured by how well they achieve ocean resource use and protection goals and objectives set forth by Congress.

For any indicators used to evaluate ecosystem health in the region, minimum requirements must be in place that ensure compliance with relevant federal and state data and information quality laws, standards, and protocols,⁶⁷ and any data and information reflected in indicators must be based on sound science and subject to continuous opportunities to incorporate new data and information.

For both plan performance and ecosystem health monitoring, the Coalition urges the RPB to develop proposed monitoring and evaluation indicators, methods, tools, goals, and analyses for inclusion in a revised draft Plan that would allow user groups, stakeholders, and the public an opportunity to consider and comment on these critical elements before the Plan is finalized.

CHAPTER 5: SCIENCE AND RESEARCH PRIORITIES

In proposing six proposed science and research priorities,⁶⁸ the draft Plan proposes a priority to “advance” ecosystem-based management (“EBM”), in part noting “a need to review the existing legal framework of federal laws related to ocean management” and that “policy research is necessary to better understand how existing federal laws and programs” can help advance ecosystem-based management.⁶⁹

While the Coalition supports efforts to increase understanding of topics related to marine resource management, until this legal framework and policy review is completed and its findings are publicly reviewed, it is premature to put forth new Plan elements that compel agency action on EBM-related or any other ocean resource management matters.

The Coalition therefore urges the RPB to revise the Plan to include a specific socio-political science and research priority to conduct an assessment that analyzes the full range of regulatory implications and legal issues associated with all aspects of Plan implementation, including but not limited to ecosystem-based management and the identification and potential application of important ecological areas in decision-making activities, as well as a peer-reviewed analysis on the current state of science for implementing ecosystem-based management, both of which the Plan should specify will be available for public review and comment.

Furthermore, **the RPB should revise the Plan to also include a socio-economic science and research priority to conduct a gap analysis of human activities and natural resources not fully or at all addressed in the Plan and related products. This should include an analysis of their existing and potential future economic and societal contributions, including development of a report on how New England’s marine resources and existing and potential future uses could contribute to meeting the economic, employment, and societal needs (including food and energy) of the region and the nation.**

As to cumulative impacts, the draft Plan refers to the “difficult task” that those in the Northeast and elsewhere have faced in cumulative impact assessment, and “the need to continue developing cumulative impact assessment methods and analyses.”⁷⁰ The Coalition agrees with the importance of this task, and notes that it should include the evaluation of cumulative economic impacts of multiple kinds and layers of regulation facing regional ocean industries.

For the EBM-related and all proposed science and research priorities, the Plan should specify how proposed actions would be funded. Furthermore, **the Plan should clarify that the development of any cumulative impact assessment methods and analyses on ecosystem and economic impacts would be subject to stakeholder engagement, including formal public notice and comment opportunities, grounded in real-world data, and accurately assess mitigation measures and the impact of new technology on environmental footprints.**

APPENDIX 3: DRAFT IMPORTANT ECOLOGICAL AREA (IEA) FRAMEWORK

The RPB seeks comment on a draft IEA Framework, the identification of IEA components and accompanying definitions for areas of high productivity, high biodiversity, high species abundance, vulnerable marine resources, and rare marine resources, tables categorizing existing marine life and habitat data that could be used to characterize and map IEA components and long-term data, science, and research needs, and the following definition for IEAs:⁷¹

“Important Ecological Areas...for Northeast Ocean Planning are habitat areas and the species, guilds, or communities critical to ecosystem function, resilience, and recovery. IEAs include areas/species/functional guilds/communities that perform important ecological functions (e.g. nutrient cycling, provide structure) that are further defined by [the] five components.”

In doing so, the draft Plan notes that the RPB “recognizes that significant progress was made in establishing a conceptual framework for using existing data to define [Important Ecological Areas] and that there is considerable additional work to be done before an approach can be implemented.” It further notes that the IEA concept can “be considered within the context of individual regulatory or management decisions,” and asserts that “EBM Work Group and public review generally expressed agreement with the definition and identification of the IEA components.”⁷²

It also adds that the National Ocean Policy definition for IEAs was used as a foundation for the development of draft IEA components, noting that “[s]everal other definitions and criteria for important biological or ecological areas provide additional context, mostly demonstrating consistent definitions and similar approaches nationally and internationally.”⁷³

Finally, it notes that scientific review of Plan-referenced marine life and habitat data applicable to the draft IEA components “is currently ongoing,” and that some datasets characterizing ecological features may require determinations and scientific reviews of a certain population threshold, areal extent, or time of year in order to define an IEA.⁷⁴

The Coalition continues to oppose Plan actions that would require the RPB to identify important ecological areas and subsequently apply such information to regulatory and management programs, and it urges the RPB to revise the draft Plan to remove related proposed actions. In addition to impacting commercial and recreational interests, identifying and applying such information as proposed by the draft Plan in the absence of legislatively-established criteria and guidance threatens to introduce significant legal uncertainty and potential statutory conflicts and increase the risk that such products could be misused or misinterpreted.

To the extent that the RPB nonetheless includes moving forward with the identification of IEA’s in the Plan, the Coalition agrees that significant additional work would be required in consultation with those whose activities would be impacted by an IEA designation, and the Plan should accordingly be revised to state that sufficient opportunities would be provided for user group engagement and that legal and economic analysis would be performed and released for formal public review and comment prior to any such identification. In addition, the draft Plan should be revised to reflect that public review included disagreement with moving forward on the identification of IEAs, as expressed in RPB public meetings.

ECOSYSTEM-BASED MANAGEMENT

Among other references to ecosystem-based management (“EBM”), the draft Plan notes that mapping products that group species based on ecological and biological characteristics “provide the underpinning for advancing an ecosystem-based approach to management by grouping species with similar life histories, trophic level, spatial distributions, and habitat requirements.”⁷⁵

It adds that, “as the science progresses,” maps grouping marine mammal and bird species based on stressor sensitivity provide “one of the better opportunities to advance comprehensive ecosystem-based management,” and that certain biological habitat maps “demonstrate ecological connections that can be considered when taking an ecosystem-based approach to management.”⁷⁶

As the Coalition has previously commented, at the present state of knowledge, practical experience with the design and implementation of monitoring programs that enable EBM remains limited, especially on

broad spatial and temporal scales. In addition to the requisite experience, details and clarity are needed on any proposed EBM implementation, including legal authority and justification for implementation, processes to identify stakeholder-driven goals (e.g., transparent decisions on what resources in an ecosystem would be enhanced and at what trade-off for other ecosystem resources), ecological and economic impact analyses, and how scientific information would be evaluated and incorporated. The Plan's terminology regarding "advancing" EBM also raises significant questions about the extent to which agencies will be compelled to take action on EBM, as well as the RPB's expectations and objectives thereof.

Therefore, **it is vital that the RPB revise the draft Plan to clarify that the Plan will not advance EBM faster than the state of the science evolves. To the degree that the RPB and Plan seek to advance EBM, the RPB should revise the draft Plan to clarify that any implementation of EBM-related components would be preceded by transparent and public review and comment processes regarding the identification of goals for EBM and related efforts associated with data collection, quality control, analysis, and interpretation, as well as analyses of the costs and benefits and legal implications of EBM implementation.**

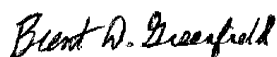
CONCLUSION

The draft Plan notes that New England's coast and coastal waters "continue to be...critical ingredients in the region's tremendous prosperity and growth."⁷⁷ As currently drafted and absent an opportunity to provide informed comments, the Coalition is deeply concerned that this Plan could place that prosperity and growth at risk.

The Coalition respectfully urges the RPB to revise the draft Plan consistent with the comments herein, and to re-release the revised draft for an additional minimum 90 days of public comment. Doing so will help ensure a more well-informed outcome that better protects the region's economic and societal health.

In closing, thank you for your careful consideration of the Coalition's comments as the RPB considers revisions to the draft Plan.

Sincerely,



Brent Greenfield
Executive Director
National Ocean Policy Coalition

¹ See June 28, 2016 Letter from the National Ocean Policy Coalition to the Northeast Regional Planning Body Federal, State, and Tribal Co-Leads.

² See Draft Northeast Ocean Plan, Page 6, available at <http://neoplaning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

³ See Draft Northeast Ocean Plan, available at <http://neoplaning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>; Draft Northeast Ocean Planning Baseline Assessment: Marine Resources, Infrastructure, and Economics, available at http://neoplaning.org/wp-content/uploads/2016/05/Baseline-Assessment_Draft-May-2016.pdf; and Marine Life Maps, Draft Synthesis Summary Products, New and Updated Habitat Maps, New National Security Data, and New Demographic and Economic Data Baseline

Assessment Maps, available at <http://www.northeastoceansdata.org/a-trove-of-new-maps-of-marine-mammals-birds-and-fish-in-the-northeast-u-s-ocean/>, <http://www.northeastoceansdata.org/new-and-updated-habitat-maps-chlorophyll-zooplankton-sediment-stability-and-bottom-dwelling-invertebrates/>, <http://www.northeastoceansdata.org/national-security-theme-added-to-northeast-ocean-data/>, and <http://www.northeastoceansdata.org/baseline-assessment-maps-show-demographic-and-economic-data-for-the-northeast/>.

⁴ See Massachusetts Oceans Act of 2008, available at <https://malegislature.gov/Laws/SessionLaws/Acts/2008/Chapter114> and Rhode Island Ocean SAMP Draft Document Archive, available at http://www.crmc.ri.gov/samp_ocean_archive.html.

⁵ See 81 FR 33213, available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-25/pdf/2016-12196.pdf>

⁶ See National Ocean Council Marine Planning Handbook (2013), Page 5, available at https://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf.

⁷ See Final Recommendations of the Interagency Ocean Policy Task Force, July 19, 2010, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf, Pages 55 and 57-58.

⁸ See Final Recommendations of the Interagency Ocean Policy Task Force, July 19, 2010, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf, Page 63 (“The NOC’s review would ensure that the CMS Plans include all the essential elements described in this framework.”) and National Ocean Council Guidance for Marine Plans, available at https://www.whitehouse.gov/sites/default/files/microsites/ostp/guidance_for_marine_plans_final_151001.pdf, Pages 3-4 (“The NOC will review and concur, as outlined below, that the final marine plan is consistent with the substantive and procedural standards and framework described in the Executive Order, Final Recommendations, and Handbook...The NOC Office will submit the final marine plan to the NOC Marine Planning Implementation Subgroup, which will review for consistency and make a recommendation to the NOC Steering Committee within 30 days of receipt. The review will consist of the following... (c) Other criteria: (i) Consistency with other authorities and guidance documents (Executive Order, Final Recommendations, Handbook, and Implementation Plan)...”).

⁹ See Executive Order for Stewardship of the Ocean, Our Coasts, and the Great Lakes, July 19, 2010, available at <http://www.whitehouse.gov/files/documents/2010stewardship-EO.pdf>, Section 6 (“All executive departments, agencies, and offices that are members of the [National Ocean] Council and any other executive department, agency, or office whose actions affect the ocean, our coasts, and the Great Lakes shall, to the fullest extent consistent with applicable law...[p]articipate in the process for coastal and marine spatial planning and comply with Council certified coastal and marine spatial plans, as described in the Final Recommendations and subsequent guidance from the Council.”); Final Recommendations of the Interagency Ocean Policy Task Force, July 19, 2010, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf, Pages 47, (“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.”); 61-62 (“...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 [Coastal and Marine Spatial] 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 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.”); 62 (“...CMS Plans...are intended to guide agency decision-making and agencies would adhere to the final CMS Plans to the extent possible, consistent with existing authorities...Once a CMS Plan is approved, Federal, State, and tribal authorities would implement them through their respective legal authorities.”); and 65-66 (“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.”); National Ocean Policy Implementation Plan, April 2013, available at http://www.whitehouse.gov/sites/default/files/national_ocean_policy_implementation_plan.pdf, Page 21 (Marine planning will support regional actions and decision-making...); and Marine Planning Handbook, July 2013, available at http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf, Page 17 (“By their concurrence, Federal agencies agree that they will use the marine plan to inform and guide their actions in the region consistent with their existing missions and authorities.”).

¹⁰ See National Oceanic and Atmospheric Administration, 81 FR 33214-33215, available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-25/pdf/2016-12196.pdf>

¹¹ See Draft Northeast Ocean Plan, Pages 11, 96, and 148, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹² See Draft Northeast Ocean Plan, Pages 6, 11, 32, and 150, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹³ See Draft Northeast Ocean Plan, Pages 26, 91, 140, 142, and 148, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹⁴ 81 FR 33214, available at <https://www.gpo.gov/fdsys/pkg/FR-2016-05-25/pdf/2016-12196.pdf>.

¹⁵ See NOAA Draft Ocean Noise Strategy Roadmap, Page 30, available at http://cetsound.noaa.gov/Assets/cetsound/documents/Roadmap/ONS_Draft_Roadmap_Complete_June1.pdf.

¹⁶ See Draft Northeast Ocean Plan, Page 31, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹⁷ See Draft Northeast Ocean Plan, Page 33, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹⁸ See Draft Northeast Ocean Plan (Draft Plan), Page 31, available at <http://neooceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

¹⁹ See Draft Northeast Ocean Plan, Page 36, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>. See also Draft Northeast Ocean Plan at 40 (The marine life and habitat section “applies, but is not limited to, each of the previously identified [14] federal environmental and regulatory laws and related processes,” and “also generally applies to the management activities previously described...and specifically applies, but is not limited to, other federal programs and activities identified here because they are particularly relevant to this Plan...”), 60 (“For the purposes of the Plan, the following [laws, regulations, and programs] are among the most pertinent.”), and 176 (“This list [of laws, regulations, and programs] is not intended to be exhaustive.”).

²⁰ See e.g. Draft Northeast Ocean Plan, Page 36, 56, 57, 73, 74, 83, 91, 92, 99, 109, 118, 127, 128, 142, and 144, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

²¹ See Draft Northeast Ocean Plan, Page 33, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

²² See Draft Northeast Ocean Plan, Page 26, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

²³ See Draft Northeast Ocean Plan, Pages 32-33, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>. See also Draft Plan at Pages 42 (“...Chapter 5 further describes science and research needs to fill gaps in information, both geographically or for species that are not well-understood”), 56 (“...collection of additional information is likely to be necessary to understand the potential for site-specific construction and operations impacts, as well as to develop pre- and post-construction monitoring requirements.”), 110 (“...data gaps, such as marine life distribution, trends, habitat conditions, and resource characterization”), and 144 (“Data and information on the Portal and in this Plan should not be used as an exclusive or sole source of information. To the extent practicable, any map or data source should be used with an understanding of the underlying methods and associated caveats and limitations (in some cases, determining caveats and limitations may require discussions with subject-matter experts and the data providers)...In almost all cases, site- and project-specific information will be required to support regulatory review and decision-making.”).

²⁴ See Draft Northeast Ocean Plan, Page 109-110, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

²⁵ See Draft Northeast Ocean Plan, Page 51, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

²⁶ See Draft Northeast Ocean Plan, Page 162, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf> (“important data gaps remain, including in basic survey coverage and species’ movement data...“geographic and temporal gaps in survey coverage”), 164 (“...survey efforts are not distributed uniformly across the region, resulting in undersampling of some areas. As a result, the distribution and abundance of certain species is not well documented. Additionally, certain species’ life histories or behaviors not well understood” and “Further exploring the relationships between marine life and habitat could highlight important ecological processes, improve the predictive capability of the MDAAT and other marine life models, or inform other management issues.”), and 42 (“Therefore, the geographic extent of the maps depends on the availability of data and the specific methods chosen to model or map each taxa.”).

²⁷ See Draft Northeast Ocean Plan, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>, Pages 168 (“Basic work to improve the characterization of human activities is a fundamental research need... Discussions with these experts revealed several areas where more work is needed to fill gaps in our understanding of human activities in the marine environment...”) 169 (“...human activities are not well documented on a regional basis.”), 163 (“There are gaps in existing information for some human activities (certain fisheries, recreational activities, and archaeological and cultural resources, for example). Additionally, the spatial patterns and intensity of human activities change through time.”), 88 (“It is very important to note that these map products are limited to only those fisheries for which there are VMS data and that there are some vessels in the fisheries listed above that do not have VMS reporting requirements, such as some permit categories in the monkfish fishery... Fisheries not represented by VMS data include bluefish, black sea bass, dogfish, fluke, lobster, red crab, scup, skate, and tilefish; also, the recreational fishery is also not represented. In addition, there are fisheries that are important locally that may not be represented by VMS data or may have their local footprint masked by a regional view (i.e., a regional view of a fishery may lose important local detail). Contact with the New England Fishery Management Council, and with state fishery management agencies, and engaging the fishing industry to understand such issues are paramount.”), 89 (“The RPB recognizes the need to develop additional information characterizing the spatial extent of the lobster fishery across the region... Similar to the lobster fishery, there is limited information on the spatial extent of recreational fishing activity, including activity through for-hire party and charter boats.”), and 91 (“...the RPB recognizes the limitations of available information...”), 93 (“The RPB will continue to seek additional ways to fill information gaps and address information needs” for commercial and recreational fisheries), 99 (“...available data may not completely characterize all aspects of recreation in New England marine waters.” and “The Portal will help identify additional information needs for determining whether a proposed agency action conflicts with or impacts recreational uses.”), 100 (“The RPB will continue to seek additional ways to fill information gaps on recreational activities...”) and 144 (“For such uses, however, the limitations of Portal and Plan information should be well understood.”).

²⁸ See Draft Northeast Ocean Plan, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>, Pages 62 (“Additionally, the Portal also provides information from the Automated Wreck and Obstruction Information System [AWOIS] data layer...although there are limitations to its use, given issues with the precision and accuracy of the underlying data”) and 64 (“While [Portal data on National Register historic properties] is incomplete...”).

²⁹ See Draft Northeast Ocean Plan, Page 107, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>. See also Draft Northeast Ocean Plan at 42 (“...the RPB further aggregated these individual species based products into maps for a range of species groups...to provide additional information to support different regulatory, management, and conservation activities.”), 43 (“These marine life and habitat products provide the opportunity to determine whether a potential action or conservation measure could affect concentrations of species or habitats that are regulated under existing law or managed through a particular program.”), 46 (These [stressor sensitivity-based species group mapping] products can inform impact analyses and assessments of the potential conflicts associated with particular regulatory or management decisions.”), 47 (For example, these maps show the predicted abundance of cetaceans to low-, medium- and high-frequency sound, and therefore can be useful when determining whether different activities producing different frequencies of sound, such as geological and geophysical surveying, pile driving, or shipping, could affect these species.”) 56 (“Species group maps...can also be used to help determine areas where marine life conservation, management, and restoration activities might have the most benefit.”), 91 (“While the RPB recognizes the limitations of available information, the consistent regional characterizations can assist with the preliminary identification of potential conflicts by helping to identify fisheries using a particular area and the nature of that use (e.g. in transit or engaged in fishing”), 124 (“[The Portal] provides a range of information to support the identification of sand resources and to help identify any potential conflicts with

proposals to extract sand for coastal replenishment.”), 137 (“Additionally, marine life and habitat, cultural, and human use data in the Portal may provide helpful regional context for restoration projects by, for example...helping to understand competing or conflicting human uses in restoration areas, and helping to identify potentially...affected stakeholders.”), and 144 (“These uses of Portal and Plan information this will help inform impact analysis of project alternatives.”).

³⁰ See Draft Northeast Ocean Plan, Page 144, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

³¹ See e.g. Information Quality Act of 2000 (P.L. 106-554), Paperwork Reduction Act of 1995 (P.L. 104-13), Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (Feb. 22, 2002, 67 FR 8452-8460), Office of Management and Budget Circular No. A-16 Revised (accessible at https://www.whitehouse.gov/omb/circulars_a016_rev#1), NOAA Information Quality Guidelines (accessible at http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html), U.S. Interior Department Information Quality Guidelines (accessible at https://www.doi.gov/sites/doi.gov/files/migrated/ocio/information_management/upload/515Guides.pdf), U.S. Defense Department Information Quality Guidelines (accessible at <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>), and U.S. Homeland Security Department Information Quality Guidelines (accessible at <https://www.dhs.gov/sites/default/files/publications/dhs-ig-guidelines-fy2011.pdf>).

³² See Draft Northeast Ocean Plan, Page 37, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

³³ See Northeast Ocean Data Portal, Wrecks and Obstructions Metadata, available at <http://www.northeastoceandata.org/files/metadata/Themes/MarineTransportation/WrecksandObstructions.htm#2>, Individual Marine Mammals & Sea Turtles Species, available at <http://www.northeastoceandata.org/data-explorer/?marine-mammals-and-sea-turtles>, Individual Fish Species, available at <http://www.northeastoceandata.org/data-explorer/?fish>, and Individual Bird Species, available at <http://www.northeastoceandata.org/data-explorer/?birds>.

³⁴ See Draft Northeast Ocean Plan, Page 164, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

³⁵ See e.g. Information Quality Act of 2000 (P.L. 106-554), Paperwork Reduction Act of 1995 (P.L. 104-13), Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (Feb. 22, 2002, 67 FR 8452-8460), Office of Management and Budget Circular No. A-16 Revised (accessible at https://www.whitehouse.gov/omb/circulars_a016_rev#1), NOAA Information Quality Guidelines (accessible at http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html), U.S. Interior Department Information Quality Guidelines (accessible at https://www.doi.gov/sites/doi.gov/files/migrated/ocio/information_management/upload/515Guides.pdf), U.S. Defense Department Information Quality Guidelines (accessible at <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>), and U.S. Homeland Security Department Information Quality Guidelines (accessible at <https://www.dhs.gov/sites/default/files/publications/dhs-ig-guidelines-fy2011.pdf>).

³⁶ See National Environmental Policy Act of 1969, as amended, available at <https://www.fws.gov/r9esnepa/RelatedLegislativeAuthorities/nepa1969.PDF>, and 40 CFR Parts 1500-1508, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, available at https://ceq.doe.gov/ceq_regulations/Council_on_Environmental_Quality_Regulations.pdf, and *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 838 (D.C. Cir. 1972)..

³⁷ See 40 CFR Parts 1500-1508, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, available at https://ceq.doe.gov/ceq_regulations/Council_on_Environmental_Quality_Regulations.pdf.

³⁸ See Draft Northeast Ocean Plan, Pages 32-137, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

³⁹ See Government Accountability Office Testimony Before the U.S. Senate Homeland Security and Governmental Affairs Committee’s Subcommittee on Regulatory Affairs and Federal Management, Sept. 23, 2015, available at <http://www.gao.gov/assets/680/672687.pdf>.

⁴⁰ See Draft Northeast Ocean Plan, Page 150, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴¹ See e.g. Information Quality Act of 2000 (P.L. 106-554), Paperwork Reduction Act of 1995 (P.L. 104-13), Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (Feb. 22, 2002, 67 FR 8452-8460), Office of Management and Budget Circular No. A-16 Revised (accessible at https://www.whitehouse.gov/omb/circulars_a016_rev#1), NOAA Information Quality Guidelines (accessible at http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html), U.S. Interior Department Information Quality Guidelines (accessible at https://www.doi.gov/sites/doi.gov/files/migrated/ocio/information_management/upload/515Guides.pdf), U.S. Defense Department Information Quality Guidelines (accessible at <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>), and U.S. Homeland Security Department Information Quality Guidelines (accessible at <https://www.dhs.gov/sites/default/files/publications/dhs-ig-guidelines-fy2011.pdf>).

⁴² See e.g. Draft Northeast Ocean Plan, Page 55 (“Continue the development of the Important Ecological Area Framework”), available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴³ See Draft Northeast Ocean Plan, Pages 139-150, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴⁴ See Draft Northeast Ocean Plan, Page 141, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴⁵ See Draft Northeast Ocean Plan, Pages 139, 141, and 142, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴⁶ See Draft Northeast Ocean Plan, Page 140, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁴⁷ See Draft Northeast Ocean Plan, Pages 141 and 140, available at <http://neoplan.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

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- ⁴⁹ See Draft Northeast Ocean Plan, Page 148, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁰ See Draft Northeast Ocean Plan, Page 148, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵¹ See Draft Northeast Ocean Plan, Page 149, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵² See Draft Northeast Ocean Plan, Page 149, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵³ See Draft Northeast Ocean Plan, Page 149, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁴ See Draft Northeast Ocean Plan, Page 149, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁵ See e.g. Information Quality Act of 2000 (P.L. 106-554), Paperwork Reduction Act of 1995 (P.L. 104-13), Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (Feb. 22, 2002, 67 FR 8452-8460), Office of Management and Budget Circular No. A-16 Revised (accessible at https://www.whitehouse.gov/omb/circulars_a016_rev#1), NOAA Information Quality Guidelines (accessible at http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html), U.S. Interior Department Information Quality Guidelines (accessible at https://www.doi.gov/sites/doi.gov/files/migrated/ocio/information_management/upload/515Guides.pdf), U.S. Defense Department Information Quality Guidelines (accessible at <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>), and U.S. Homeland Security Department Information Quality Guidelines (accessible at <https://www.dhs.gov/sites/default/files/publications/dhs-ig-guidelines-fy2011.pdf>).
- ⁵⁶ See Draft Northeast Ocean Plan, Pages 139 and 150-156, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁷ See Draft Northeast Ocean Plan, Page 150, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁸ See Draft Northeast Ocean Plan, Page 150, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁵⁹ See Draft Northeast Ocean Plan, Pages 154 and 156, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶⁰ See Draft Northeast Ocean Plan, Page 152, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶¹ See Northeast Regional Planning Body Charter, available at <http://neoceanplanning.org/wp-content/uploads/2014/07/Charter-with-Signatories.pdf>.
- ⁶² See Draft Northeast Ocean Plan, Pages 139, 158-159, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶³ See Draft Northeast Ocean Plan, Page 157, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶⁴ See Draft Northeast Ocean Plan, Page 157, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶⁵ See Draft Northeast Ocean Plan, Page 157, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶⁶ See Ocean Health Index, "What Is The Ocean Health Index?," available at <http://www.oceanhealthindex.org/about/faq>.
- ⁶⁷ See e.g. Information Quality Act of 2000 (P.L. 106-554), Paperwork Reduction Act of 1995 (P.L. 104-13), Office of Management and Budget Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies (Feb. 22, 2002, 67 FR 8452-8460), Office of Management and Budget Circular No. A-16 Revised (accessible at https://www.whitehouse.gov/omb/circulars_a016_rev#1), NOAA Information Quality Guidelines (accessible at http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html), U.S. Interior Department Information Quality Guidelines (accessible at https://www.doi.gov/sites/doi.gov/files/migrated/ocio/information_management/upload/515Guides.pdf), U.S. Defense Department Information Quality Guidelines (accessible at <http://www.defense.gov/Resources/DoD-Information-Quality-Guidelines>), and U.S. Homeland Security Department Information Quality Guidelines (accessible at <https://www.dhs.gov/sites/default/files/publications/dhs-ig-guidelines-fy2011.pdf>).
- ⁶⁸ See Draft Northeast Ocean Plan, Pages 162-173, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁶⁹ See Draft Northeast Ocean Plan, Pages 163 and 172, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷⁰ See Draft Northeast Ocean Plan, Page 172, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷¹ See Draft Northeast Ocean Plan, Pages 188-191 available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷² See Draft Northeast Ocean Plan, Pages 52 and 53, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷³ See Draft Northeast Ocean Plan, Page 188, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷⁴ See Draft Northeast Ocean Plan, Page 189, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.
- ⁷⁵ See Draft Northeast Ocean Plan, Page 45, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.

⁷⁶ See Draft Northeast Ocean Plan, Pages 46 and 50, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>. See also Draft Northeast Ocean Plan at 161 (“The remaining science and research priorities are included in this chapter and organized as opportunities...to advance the scientific underpinning of a more comprehensive, ecosystem-based approach to ocean management.”), 162 (“This framework is generally aligned with the science required to advance ecosystem-based management, as it has been defined to date.”), and 172 (“Additionally, policy research is necessary to better understand how existing federal laws and programs can utilize the outputs of the [described] science and research...i.e., to help identify how ecosystem-based management can continue to be advanced.”).

⁷⁷ See Draft Northeast Ocean Plan, Page 8, available at <http://neoceanplanning.org/wp-content/uploads/2016/05/Draft-Northeast-Ocean-Plan-Full.pdf>.