



# Ocean Commissions: Ocean Policy Review and Outlook

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## Summary

In 2003 and 2004, the U.S. Commission on Ocean Policy and the Pew Oceans Commission made numerous recommendations for changing U.S. ocean policy and management. The 109<sup>th</sup> Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 109-479), incorporating provisions recommended by both commissions, and authorized the Marine Debris Research, Prevention, and Reduction Act (P.L. 109-449). Several bills encompassing a broad array of cross-cutting concerns such as ocean exploration; ocean and coastal observing systems; federal organization and administrative structure; and ocean and coastal mapping were considered, but not acted on during the 110<sup>th</sup> Congress.

Identification of the need for a comprehensive national ocean policy can be traced back to 1966, when a presidential Commission on Marine Science, Engineering, and Resources was established (called the Stratton Commission). In 1969, the commission provided recommendations that led to reorganizing federal ocean programs and establishing the National Oceanic and Atmospheric Administration (NOAA). By the late 1980s, a number of influential voices had concluded that U.S. ocean management remained fragmented and was characterized by a confusing array of laws, regulations, and practices. After repeated attempts, the 106<sup>th</sup> Congress enacted legislation to establish a U.S. Commission on Ocean Policy (P.L. 106-256). Earlier in 2000, the Pew Oceans Commission, an independent group, was established by the Pew Charitable Trusts to conduct a national dialogue on restoring and protecting living marine resources in U.S. waters.

In June 2003, the Pew Commission released its final report, *America's Living Oceans: Charting a Course for Sea Change*, outlining a national agenda for protecting and restoring the oceans. In September 2004, the U.S. Commission published, *An Ocean Blueprint for the 21<sup>st</sup> Century*, its final report with 212 recommendations on a coordinated and comprehensive national ocean policy. On December 17, 2004, the President submitted to Congress the *U.S. Ocean Action Plan*, his formal response to the recommendations of the U.S. Commission on Ocean Policy. The U.S. Commission on Ocean Policy and the Pew Oceans Commission established the Joint Ocean Commission Initiative in early 2005 to collaborate on a number of key recommendations of both reports. As part of this effort, they developed a *U.S. Ocean Policy Report Card*. The *2007 Report Card* showed modest progress in implementing recommendations of the two commissions, with an overall grade of C, up from an overall average of C- in 2006.

The 111<sup>th</sup> Congress is continuing to consider ocean policy and management recommendations of the two commission reports and the President's response. Comprehensive changes in ocean governance and administrative structure are proposed in the Oceans Conservation, Education, and National Strategy for the 21<sup>st</sup> Century Act (H.R. 21) and the National Oceans Protection Act of 2009 (S. 858). Bills addressing specific topics such as coral reefs, marine sanctuaries, ocean acidification, ocean exploration and research, and shark conservation also have been introduced.

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## Background and Analysis

The U.S. Commission on Ocean Policy and the Pew Oceans Commission have made numerous recommendations for changing U.S. ocean policy and management. In considering legislative responses to the findings and recommendations of the ocean commissions and the President's response, Congress may consider comprehensive bills encompassing a broad array of cross-cutting concerns, including ocean exploration; ocean and coastal observing systems; federal organization and administrative structure; and ocean and coastal mapping integration; or they may consider addressing each concern separately.

Congress has shown interest in ocean affairs in recent decades, examining components of the federal ocean programs, enacting legislation creating new ocean programs, and taking steps to define a national ocean policy. The Marine Resources and Engineering Development Act of 1966 (P.L. 89-454) established a National Council on Marine Resources and Engineering Development in the White House and initiated work by a presidential bipartisan Commission on Marine Science, Engineering, and Resources. Dr. Julius Stratton, then recently retired president of the Massachusetts Institute of Technology and, at the time, Chairman of the Board of the Ford Foundation, was appointed commission chairman by President Lyndon Johnson. The commission, composed of 15 members, was often referred to as the Stratton Commission. In 1969, the commission completed its final report, *Our Nation and the Sea: A Plan for National Action*, and its more than 120 formal recommendations provided what many considered to be the most comprehensive statement of federal policy for exploration and development of ocean resources. The study was instrumental in defining the structure, if not all the substance, of what a national ocean policy could or should look like. Furthermore, new ocean-oriented programs were initiated and existing ones were strengthened in the years following the commission's report, through a number of laws enacted by Congress.

Recommendations of the Stratton Commission led directly, within the following decade, to forming the National Sea Grant College Program, to creating the National Advisory Committee on Oceans and Atmosphere (NACOA), and to reorganizing federal ocean programs under the newly established National Oceanic and Atmospheric Administration (NOAA). Subsequent legislation on estuarine reserves, national marine sanctuaries, marine mammal protection, coastal zone management, fishery conservation and management, ocean pollution, and seabed mining also reflected commission recommendations. Efforts sprang up within the federal government and among various interagency and federal advisory committees to flesh out how best to implement a truly comprehensive and forward-looking national ocean policy, most notably articulated in the 1978 Department of Commerce report *U.S. Ocean Policy in the 1970s: Status and Issues*.<sup>1</sup>

Since 1980, with concerns about limiting federal expenditures and streamlining government, there have been fewer ocean initiatives, and a number of ocean programs, particularly those of NOAA, have been consolidated and reduced. However, the programs begun in the 1970s generally have been reauthorized and have matured. By the late 1980s, there appeared to be a broad consensus among those conversant in ocean affairs that a need existed to redefine or, at the very least, better define national ocean policy. Two stimuli for this renewed interest were the 1983 proclamation by President Reagan establishing a 200-nautical-mile U.S. Exclusive Economic Zone (EEZ) and the 1988 extension of the U.S. territorial sea from 3 to 12 nautical miles, both of

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<sup>1</sup> U.S. Dept. of Commerce, *U.S. Ocean Policy in the 1970s: Status and Issues* (Washington, DC: GPO, 1978), 334 pp.

which came in the aftermath of the President's decision that the United States would not sign the U.N. Convention on the Law of the Sea.<sup>2</sup>

Legislation creating an oceans commission and/or a national ocean council to review U.S. ocean policy was introduced and hearings were held in the 98<sup>th</sup>, 99<sup>th</sup>, 100<sup>th</sup>, and 105<sup>th</sup> Congresses. Legislation did pass the House in October 1983, September 1987, and again in October 1988, but was not acted on by the Senate in any of those instances. In the 105<sup>th</sup> Congress, legislation creating both a national ocean council and a commission on ocean policy passed the Senate in November 1997, and in 1998 the House passed a bill creating a commission on ocean policy. However, Congress adjourned in 1998 before differences between these two measures could be reconciled. It was not until the 106<sup>th</sup> Congress in 2000 that legislation was enacted to establish a 16-member U.S. Commission on Ocean Policy (P.L. 106-256). The commission's charge was to make recommendations for a coordinated and comprehensive national ocean policy for a broad range of ocean issues. The enactment rode a crest of interest generated largely by a National Ocean Conference convened by the White House in June 1998, in Monterey, CA,<sup>3</sup> and attended by President Clinton and Vice President Gore, against a background of media and public attention surrounding the declaration by the United Nations of 1998 as the International Year of the Ocean.<sup>4</sup> Momentum was added by the September 1999 release of a post-Monterey conference report, ordered by the President and prepared by members of his Cabinet, entitled *Turning to the Sea: America's Ocean Future*, in which recommendations were offered for a coordinated, disciplined, long-term federal ocean policy.<sup>5</sup>

Also in 2000, partially in response to that rekindled interest and partially in response to congressional legislation having failed final passage in 1998, the Pew Charitable Trusts established the Pew Oceans Commission, an independent group of 18 American experts in their respective fields. The Pew Commission's charge was to conduct a national dialogue on the policies needed to restore and protect living marine resources in U.S. waters. Pew proceeded with their effort after failing to persuade key Members of Congress to introduce legislation to establish a public/private, nongovernmental oceans commission.

## **U.S. Commission on Ocean Policy**

The Oceans Act of 2000 (P.L. 106-256) mandated a U.S. Commission on Ocean Policy. Appointed by the President, the commission was required to issue findings and make recommendations to the President and Congress for a coordinated and comprehensive national ocean policy. The new policy was to address a broad range of issues, from the stewardship of marine resources and pollution prevention to enhancement and support of marine science, commerce, and transportation.

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<sup>2</sup> For more information, see CRS Report RS21890, *The U.N. Law of the Sea Convention and the United States: Developments Since October 2003*, by Marjorie Ann Browne.

<sup>3</sup> U.S. Dept. of Commerce and Dept. of the Navy, *Oceans of Commerce ... Oceans of Life*, Proceedings of the National Ocean Conference, June 11-12, 1998, Monterey, CA (Washington, DC: NOAA, 1998), vi + 241 pp.

<sup>4</sup> The International Year of the Ocean was proclaimed by the U.N. General Assembly on December 19, 1994, in resolution A/RES/49/131, *Question of Declaring 1998 International Year of the Ocean*, at the initiative of the Intergovernmental Oceanographic Commission (IOC) of the U.N. Educational, Scientific and Cultural Organization (UNESCO).

<sup>5</sup> U.S. Dept. of Commerce and Dept. of the Navy, *Turning to the Sea: America's Ocean Future* (Washington, DC: NOAA, 1999), 64 p.

The 16 members of the commission were appointed by President Bush on July 3, 2001. Those appointments were based on a process that included nominations by Congress and appointment by the President.

The commission convened its inaugural meeting on September 17-18, 2001, in Washington, DC, and commissioners selected Admiral James D. Watkins, U.S. Navy (retired) as chair. Through several sessions, the commission established four working groups to address issues in the areas of (1) governance; (2) research, education, and marine operations; (3) stewardship; and (4) investment and implementation. The working groups were charged with reviewing and analyzing issues within their specific areas of focus and reporting their findings to the full commission.

The Oceans Act of 2000 specifically directed the commission to establish a Science Advisory Panel to assist in preparing the report and to ensure that the scientific information considered by the commission and each of its working groups was the best available. The composition of the Science Advisory Panel was determined by the commissioners; members were recruited in consultation with the Ocean Studies Board of the National Research Council at the National Academy of Sciences and reflected the breadth of issues before the commission. The commission divided the members of the Science Advisory Panel into four working groups, consistent with the full commission's structure.

The commission began its work by launching a series of public meetings to gather information about the most pressing issues that the Nation faced regarding the use and stewardship of the oceans. The working groups played an important role in determining the effectiveness of the regional public meetings and in identifying key issues to be addressed by the commission. In each region visited, the commission heard presentations on a wide-ranging set of topics judged to be necessary to ultimately address the requirements in the Oceans Act of 2000. Based on the information gathered at the public meetings, the working groups identified and reviewed key issues, outlined options for addressing those issues, and determined the need for white papers providing more detailed information on specific topics. The deliberations of each working group were shared with the other groups throughout the process to better coordinate development of the final commission report and recommendations.

After hearing 440 presenters at 15 public meetings in 10 cities during 11 months and conducting 17 additional site visits around the country, the commission completed its information-gathering phase in October 2002. The commission began deliberations in November 2002, and the last meeting dedicated to open public discussion of policy options—the sixteenth public commission meeting—was held April 2-3, 2003, in Washington, DC.

## **Reports and Working Documents**

Examples of supporting documents, working papers, and publications either produced for or generated by the commission include *Draft Policy Option Documents*, *Working Table of Contents*, *Governing the Oceans*, *Elements Document*, and *Law of the Sea Resolution*. These documents are available in pdf format on the commission's website at <http://www.oceancommission.gov/documents/welcome.html>.

## **Delivery of the Commission Report**

The commission published its final report in two stages. First, on April 20, 2004, the commission released a *Preliminary Report*, which was available for a 30-day period of review and comment by the nation's governors and interested stakeholders.<sup>6</sup> That *Preliminary Report* was built on information presented at the public meetings and site visits, combined with scientific and technical information on oceans and coasts from hundreds of experts. The findings and policy recommendations in the *Preliminary Report* reflected a consensus of commission members and presented what the commissioners believed to be a balanced approach to protecting the ocean environment while sustaining the vital role oceans and coasts play in the national economy.<sup>7</sup>

After the public comment period closed, stage two of the process commenced when the commission began reviewing the comments and modifying the preliminary report in response to gubernatorial or other stakeholder input. At its 17<sup>th</sup> public meeting on July 22, 2004, the U.S. Commission on Ocean Policy approved changes to its *Preliminary Report* and directed staff to prepare the final report, bearing the official title *An Ocean Blueprint for the 21<sup>st</sup> Century*. That report, with its recommendations on a coordinated and comprehensive national ocean policy, was delivered to the President and Congress on September 20, 2004, in ceremonies at the White House and on Capitol Hill.

## **Summary of Commission Recommendations**

The commission presented 212 recommendations throughout *An Ocean Blueprint*; of these recommendations, 13 “critical” actions recommended by the commission can be summarized as follows:

1. Establish a National Ocean Council in the Executive Office of the President, chaired by an Assistant to the President.
2. Create a President's Council of Advisors on Ocean Policy.
3. Strengthen NOAA and improve the federal agency structure.
4. Develop a flexible and voluntary process for creating regional ocean councils, facilitated and supported by the National Ocean Council.
5. Double the nation's investment in ocean research.
6. Implement the national Integrated Ocean Observing System.<sup>8</sup>

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<sup>6</sup> On May 14, 2004, the commission extended the closing date for public comment on the *Preliminary Report* to June 4, 2004. This extension applied to governors and all other stakeholders.

<sup>7</sup> The U.S. Commission on Ocean Policy's preliminary report, *Preliminary Report of the U.S. Commission on Ocean Policy*, is available at <http://oceancommission.gov/documents/prelimreport/welcome.html>.

<sup>8</sup> An integrated system could provide (1) raw data on oceanographic parameters, with data assembled and checked for quality; (2) data management and communications involving a system of standards and protocols to allow a wide variety of data to be located, integrated, and archived; and (3) data analysis and incorporation into models of environmental behavior.

7. Increase attention to ocean education through coordinated and effective formal and informal programs.
8. Strengthen the link between coastal and watershed management.
9. Create a coordinated management regime for federal waters.
10. Create measurable water pollution reduction goals, particularly for nonpoint sources, and strengthen incentives, technical assistance, and other management tools to reach those goals.
11. Reform fisheries management by separating assessment and allocation, improving the Regional Fishery Management Council system, and exploring the use of dedicated access privileges.
12. Accede to the U.N. Convention on the Law of the Sea.
13. Establish an Ocean Policy Trust Fund based on revenue from offshore oil and gas development and other new and emerging offshore uses to pay for implementing the recommendations.

### **Changes Contained in the Final Report**

At its meeting on July 22, 2004, the commission unanimously approved numerous changes to the recommendations and text in the commission's *Preliminary Report*, which were included in the final report, *An Ocean Blueprint*. Those modifications were based on more than 600 pages of comments from 37 governors and 5 tribal leaders; responses from more than 800 public commenters, stakeholders, and other experts and advisers; as well as technical corrections provided by federal agencies. There were, however, no changes to the 13 critical actions listed above. A detailed summary of specific changes appearing in *An Ocean Blueprint* is available on the commission's website.<sup>9</sup> Changes of an overall general nature in the final report include the following:

- The report was revised to further emphasize the important role of states, and to clarify that the commission favors a balanced, not a "top down," approach of shared responsibility for ocean and coastal issues;
- The report clarified the commission's intent to embrace all coastal areas and decision-makers, including the Great Lakes, U.S. territories, and tribes;
- Many sections of the report were revised to address the issue of climate change and its impacts on the oceans and coasts;
- The importance of cultural heritage in connection with the ocean was more fully recognized and addressed; and
- Discussions about the funding needed to implement recommendations were consolidated into an expanded Chapter 30 ("Funding Needs and Possible Sources").

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<sup>9</sup> [http://www.oceancommission.gov/documents/prelim\\_report\\_changes.pdf](http://www.oceancommission.gov/documents/prelim_report_changes.pdf).



## Comments on the U.S. Commission's Work

The governors' and tribal leaders' comments on the commission's *Preliminary Report* were generally favorable. Most of the 37 governors and 5 tribal leaders highlighted the report's comprehensive treatment of ocean and coastal issues, the economic importance of oceans and coasts, and the need to take immediate action to protect and enhance the health of these resources. Their primary concerns related to funding issues; the participation of states, territories, and tribes in national policy development; and the need for flexibility in the implementation of such policies.<sup>10</sup>

Public comments were received from private citizens (including school children), non-governmental organizations, trade associations, governmental and quasi-governmental organizations (e.g., regional fishery management councils), academicians, scientists, and lawyers. The vast majority of public commenters praised the report as comprehensive and balanced, and voiced their support for implementation of the recommendations. Although many supported the report's major themes and recommendations, a significant number of commenters highlighted areas of particular concern, including national and regional governance, federal organization, offshore management regimes, funding for science and research and for implementation of commission recommendations, ecosystem-based management, regulation and enforcement, and living marine resources. Furthermore, there were numerous additional comments on a suite of issues, including cruise ships, climate change, atmospheric deposition, invasive species, bottom-trawling, bycatch, wind energy, coastal development, international ocean policy, and seafood safety.<sup>11</sup>

Soon after the release of the commission's preliminary report, several Members of Congress commented on the report and its recommendations. These members generally supported the basic thrust of the report, but specific issues such as the level of proposed funding increases, creation of a specific oceans structure in the White House, and the transfer of other agencies' functions to NOAA were questioned.<sup>12</sup> Articles and editorials in regional media generally focused on selected local issues,<sup>13</sup> while interest groups highlighted specific issues. Some states made their comments publically available.<sup>14</sup> Some commenters criticized the report and its recommendations as further contributing to excessive government control.<sup>15</sup>

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<sup>10</sup> A summary of comments submitted by the governors and tribal leaders on the *Preliminary Report* is available on the commission's website, at [http://www.oceancommission.gov/newsnotices/summary\\_govcomments.pdf](http://www.oceancommission.gov/newsnotices/summary_govcomments.pdf). The full text of their comments is also available online at [http://www.oceancommission.gov/documents/gov\\_comments/welcome.html](http://www.oceancommission.gov/documents/gov_comments/welcome.html).

<sup>11</sup> A two-page summary of the public comments is available on the commission's website at [http://www.oceancommission.gov/newsnotices/summary\\_publiccomments.pdf](http://www.oceancommission.gov/newsnotices/summary_publiccomments.pdf).

<sup>12</sup> "Experts Give Broad Support to new U.S. Ocean Policy; Evaluate Report on New Policy at House Hearing," *Federal Information and News dispatch, Inc.*, available at [http://www.nexis.com/research/home?key=1184340909&\\_session=a39a86a8-3156-11dc-96bb-00008a0c593c.1.3361793709.296188.0.0.0&\\_state=&wchp=dGLbVlz-zSkBb&\\_md5=d7d1ff1f02df1140fe04515c82f189a7](http://www.nexis.com/research/home?key=1184340909&_session=a39a86a8-3156-11dc-96bb-00008a0c593c.1.3361793709.296188.0.0.0&_state=&wchp=dGLbVlz-zSkBb&_md5=d7d1ff1f02df1140fe04515c82f189a7)

<sup>13</sup> For example, see Greg C. Bruno, "Sea Change for State: National Ocean Report Could Have Big Impact on Florida," *Gainesville Sun*, April 21, 2004; and Wesley Loy, "Commission Gives Props to Alaska Fisheries," *Anchorage Daily News*, April 20, 2004.

<sup>14</sup> For example, see those of Texas posted at [http://www.governor.state.tx.us/divisions/bpp/files/ocean\\_policy.pdf](http://www.governor.state.tx.us/divisions/bpp/files/ocean_policy.pdf).

<sup>15</sup> For example, see <http://worldwildlife.org/oceans/report.cfm>.

## **The Pew Oceans Commission**

The Pew Oceans Commission, an independent group of 18 authorities in ocean-related issues and government, was established in April 2000 and funded by a \$5.5 million grant from the Pew Charitable Trusts to conduct a national dialogue on the policies needed to restore and protect living marine resources in U.S. waters. This commission released its final report, *America's Living Oceans: Charting a Course for Sea Change*, on June 4, 2003, outlining a national agenda for protecting and restoring the oceans.<sup>16</sup> In addition, during this process, nine "science reports" were prepared and released.<sup>17</sup>

### **Summary of Pew Commission Recommendations**

The commission's 26 recommendations, organized within six categories, are summarized in the final report as follows:

#### **A. Governance for Sustainable Seas**

1. Enact a National Ocean Policy Act to protect, maintain, and restore the health, integrity, resilience, and productivity of the ocean.
2. Establish regional ocean ecosystem councils to develop and implement enforceable regional ocean governance plans.
3. Establish a national system of fully protected marine reserves.
4. Establish an independent national oceans agency.
5. Establish a permanent federal interagency oceans council.

#### **B. Restoring America's Fisheries**

6. Redefine the principal objective of American marine fishery policy to protect marine ecosystems.
7. Separate conservation and allocation decisions.
8. Implement ecosystem-based planning and marine zoning.
9. Regulate the use of fishing gear that is destructive to marine habitats.
10. Require bycatch monitoring and management plans as a condition of fishing.

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<sup>16</sup> The full report is available at [http://www.pewtrusts.org/our\\_work\\_detail.aspx?id=130](http://www.pewtrusts.org/our_work_detail.aspx?id=130).

<sup>17</sup> The topics of the nine science reports were (1) *Managing Marine Fisheries in the United States*; (2) *A Dialogue on America's Fisheries*; (3) *Socioeconomic Perspectives on Marine Fisheries in the United States*; (4) *Marine Reserves: A Tool for Ecosystem Management and Conservation*; (5) *Ecological Effects of Fishing in Marine Ecosystems of the United States*; (6) *Coastal Sprawl and the Effect of Urban Design on Aquatic Ecosystems in the United States*; (7) *Marine Pollution in the United States*; (8) *Marine Aquaculture in the United States*; and (9) *Introduced Species In U.S. Coastal Waters*. Copies of these reports are available at [http://www.pewtrusts.org/our\\_work\\_detail.aspx?id=130](http://www.pewtrusts.org/our_work_detail.aspx?id=130).

11. Require comprehensive access and allocation planning as a condition of fishing.

12. Establish a permanent fishery conservation and management trust fund.

#### C. Preserving Our Coasts

13. Develop an action plan to address non-point source pollution and protect water quality on a watershed basis.

14. Identify and protect from development habitat critical for the functioning of coastal ecosystems.

15. Institute effective mechanisms at all levels of government to manage development and minimize its impact on coastal ecosystems.

16. Redirect government programs and subsidies away from harmful coastal development and toward beneficial activities, including restoration.

#### D. Cleaning Coastal Waters

17. Revise, strengthen, and expand pollution laws to focus on non-point source pollution.

18. Address unabated point sources of pollution, such as concentrated animal feeding operations and cruise ships.

19. Create a flexible framework to address emerging and nontraditional sources of pollution, such as invasive species and noise.

20. Strengthen control over toxic pollution.

#### E. Guiding Sustainable Marine Aquaculture

21. Implement a new national marine aquaculture policy based on sound conservation principles and standards.

22. Set a standard, and provide international leadership, for ecologically sound marine aquaculture practices.

#### F. Science, Education, and Funding

23. Develop and implement a comprehensive national ocean research and monitoring strategy.

24. Double funding for basic ocean science and research.

25. Improve the use of existing scientific information by creating a mechanism or institution that regularly provides independent scientific oversight of ocean and coastal management.

26. Broaden ocean education and awareness through a commitment to teach and learn about the world ocean, at all levels of society.

## Comments on the Pew Commission's Work

Comments on the commission's work ranged from dismissive to laudatory. Some were concerned that the commission's work was not objective, being overly influenced by the "environmental agenda" of the Pew Charitable Trusts as an attack on commercial seafood harvesting, while ignoring other significant issues such as the damaging effects of oil spills in the marine environment.<sup>18</sup> Representative Richard Pombo, then Chair of the House Committee on Resources, issued a press release on June 4, 2003, critical of the Pew Commission report, concluding "we cannot expect such a group to issue non-biased recommendations." Praise for the report came from commission members, who saw the report as a long overdue update of antiquated U.S. ocean policy, offering practical solutions to reverse declining trends.<sup>19</sup> John Flicker, the President of the Audubon Society, referred to this report as a wake-up call to all Americans that the oceans and coastal areas are in real trouble, offering a blueprint for action to protect ecosystems at risk.<sup>20</sup> The Pew Commission report covered only a portion of ocean issues, compared with the U.S. Commission on Ocean Policy, which covered a broader cross-section of issues.

Other than the House Resources Committee press release, others in Congress did not immediately react to the release of the Pew Oceans Commission report. Pew commissioners, including chairman Leon E. Panetta, testified before the U.S. Commission on several occasions. Elements of the Pew Oceans Commission report are reflected in legislation passed by the 109<sup>th</sup> Congress such as the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (P.L. 109-479) and the Marine Debris Research, Prevention, and Reduction Act (P.L. 109-449).

## Administration Response and Implementation

Within 120 days after receiving the U.S. Ocean Commission's report, the President was required to submit to Congress a statement of proposals to implement or respond to the commission's recommendations for a national policy on ocean and coastal resources.<sup>21</sup> In doing so, the President was directed to consult with state and local governments and non-federal organizations and individuals involved in ocean and coastal activities.<sup>22</sup>

On December 17, 2004, the President submitted to Congress a *U.S. Ocean Action Plan*, his formal response to the recommendations of the U.S. Commission.<sup>23</sup> Also on December 17, President Bush signed Executive Order 13366 establishing, as part of the Council on Environmental Quality, a Committee on Ocean Policy, to be led by the chair of the Council on Environmental Quality.<sup>24</sup> On January 26, 2007, the Committee on Ocean Policy released the *U.S. Ocean Action Plan Implementation Update*.<sup>25</sup> The original action plan and the update cover progress in six general subject areas:

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<sup>18</sup> Nils E. Stolpe, *The Pew Commission—A Basis for National Ocean Policy?*, available at <http://www.fishingnj.org/netusa23.htm>.

<sup>19</sup> Pat White and Jane Lubchenco, "New Policies on Ocean Fishing Overdue," *The Boston Globe*, June 5, 2003, p. A19.

<sup>20</sup> John Flicker, "Save the Coasts, Even if Only for Our Sake," *Sun Sentinel*, June 19, 2003, p. 25A.

<sup>21</sup> P.L. 106-256, § 4(a).

<sup>22</sup> P.L. 106-256, § 4(b).

<sup>23</sup> The 39-page *Action Plan* is available at <http://ocean.ceq.gov/actionplan.pdf>.

<sup>24</sup> The text of this executive order is available at <http://www.whitehouse.gov/news/releases/2004/12/20041217-5.html>.

<sup>25</sup> The 57-page *Action Plan Update* is available at [http://ocean.ceq.gov/oap\\_update012207.pdf](http://ocean.ceq.gov/oap_update012207.pdf).

- enhancing ocean leadership and coordination;
- advancing our understanding of the oceans, coasts, and Great Lakes;
- enhancing the use and conservation of ocean, coastal, and Great Lakes resources;
- managing coasts and their watersheds;
- supporting marine transportation; and
- advancing international ocean policy and science.

To support this effort, the Committee on Ocean Policy established an ocean governance structure composed of subsidiary bodies to coordinate existing management: the Interagency Committee on Ocean Science and Resource Management Integration (ICOSRMI) and two subcommittees, established by the National Science and Technology Council (NSTC), the Joint Subcommittee on Ocean Science and Technology (JSOST) and the Subcommittee on Integrated Management of Ocean Resources (SIMOR). In January 2008, the ICOSRMI released the *Federal Ocean and Coastal Activities Report to Congress for CY 2006 and 2007*. The report provides an overview of select activities and accomplishments of Ocean Action Plan implementation.<sup>26</sup>

JSOST was assigned the task of developing an interagency planning document and implementation strategy for ocean science and technology priorities. On January 26, 2007, the *National Ocean Research Priorities Plan and Implementation Strategy* was released by JSOST.<sup>27</sup> The plan presents research priorities and guidance on how various ocean science sectors should be engaged to address areas of greatest research opportunity. JSOST also is to coordinate six working groups on (1) ocean education, (2) ocean infrastructure, (3) ocean observation, (4) harmful algal blooms, hypoxia, and human health, (5) ocean and coastal mapping, and (6) ocean partnership.

SIMOR seeks to facilitate collaboration and cooperation among federal agencies and to build partnerships among federal, state, tribal, and local authorities. According to the SIMOR work plan, subcommittee priority areas include:

- supporting regional and local collaboration;
- facilitating use of ocean science and technology in ocean management;
- enhancing ocean, coastal, and Great Lakes resource management to improve use and conservation; and
- enhancing ocean education.<sup>28</sup>

The National Park Service Ocean Park Stewardship Action Plan is an example of the collaborative efforts envisioned in the *U.S. Ocean Action Plan*<sup>29</sup> and is summarized in the action plan update. The Stewardship Action Plan highlights the establishment, in partnership with

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<sup>26</sup> The report is available at <http://ocean.ceq.gov/>.

<sup>27</sup> The National Ocean Research Priorities Plan and Implementation Strategy is available at <http://ocean.ceq.gov/about/docs/orppfinal.pdf>.

<sup>28</sup> SIMOR priorities are discussed in *Priorities for the Subcommittee on Integrated Management of Ocean Resources*, available at [http://www.ocean.ceq.gov/about/docs/SIMOR\\_WorkPlan\\_Final.pdf](http://www.ocean.ceq.gov/about/docs/SIMOR_WorkPlan_Final.pdf).

<sup>29</sup> The Ocean Park Stewardship 2006-2008 Action Plan is available at [http://www.nps.gov/pub\\_aff/oceans/Ocean\\_Park\\_ActionPlan.pdf](http://www.nps.gov/pub_aff/oceans/Ocean_Park_ActionPlan.pdf).

NOAA, other relevant agencies, and public and private entities, of a seamless system of ocean parks, sanctuaries, refuges, and reserves. This plan also identifies actions related to mapping, enhancing protection, educating and engaging the public, and increasing the technical capacity for exploration and stewardship. These efforts are supported by a general agreement among the Department of Commerce (National Marine Sanctuary Program and Estuarine Reserves Division) and the Department of the Interior (Fish and Wildlife Service and National Park Service) to collaborate on efforts to improve management efficiencies, increase joint planning efforts, enhance public education, and improve law enforcement and rescue capabilities.

The United Nations Convention on the Law of the Sea (UNCLOS) was agreed to in 1982, but the United States never became a signatory nation. On May 15, 2007, President Bush issued a statement in which he “urged the Senate to act favorably on U.S. accession to UNCLOS during this session [110<sup>th</sup>] of Congress.” UNCLOS was reported on December 19, 2007, by the Senate Committee on Foreign Relations (S.Exec.Rept. 110-9), but the Senate did not consider the treaty.<sup>30</sup> In the 111<sup>th</sup> Congress, Secretary of State Hillary Clinton, at her confirmation hearing before the Senate Committee on Foreign Affairs on January 13, 2009, acknowledged that U.S. accession to the LOS Convention would be an Obama Administration priority.

## **Joint Ocean Commission Initiative**

The U.S. Commission on Ocean Policy and the Pew Oceans Commission identified complementary recommendations for a number of key areas in their respective reports. A collaborative Joint Ocean Commission Initiative was initiated in early 2005 to maintain the momentum generated by the two commissions. This initiative is guided by a ten-member task force, five of whom served on each commission, and is led by former commission chairs Admiral James D. Watkins and the Honorable Leon E. Panetta. The main objective of the initiative is to maintain progress on ocean policy reform with core priorities that include the need for ecosystem management, ocean governance reforms, improved fisheries management, increased reliance on science in management decisions, and more funding for ocean and coastal programs.

On March 16, 2006, a bipartisan group of 10 Senators requested that the Joint Ocean Commission Initiative report on the top 10 steps Congress should take to address the most pressing challenges, the highest funding priorities, and the most important changes to federal laws and the budget process to establish a more effective and integrated ocean policy. In response on June 13, 2006, a national ocean policy action plan for Congress, *From Sea to Shining Sea: Priorities for Ocean Policy Reform—A Report to the United States Senate*, was delivered to Congress by the Joint Ocean Commission Initiative and was intended to serve as a guide for developing legislation and funding high-priority programs.<sup>31</sup>

This action plan responded to the Senators’ request to identify the most urgent priorities for congressional action to protect, restore, and maintain the marine ecosystem. According to the plan, the 10 steps are:

- adopt a statement of national ocean policy;

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<sup>30</sup> For more information, see CRS Report RS21890, *The U.N. Law of the Sea Convention and the United States: Developments Since October 2003*, by Marjorie Ann Browne.

<sup>31</sup> The full action plan is available at [http://www.jointoceancommission.org/resource-center/1-Reports/2006-06-13\\_Sea\\_to\\_Shining\\_Sea\\_Report\\_to\\_Senate.pdf](http://www.jointoceancommission.org/resource-center/1-Reports/2006-06-13_Sea_to_Shining_Sea_Report_to_Senate.pdf).

- pass an organic act to establish NOAA in law and work with the Administration to identify and act upon opportunities to improve federal agency coordination on ocean and coastal issues;
- foster ecosystem-based regional governance;
- reauthorize an improved Magnuson-Stevens Fishery Conservation and Management Act;
- enact legislation to support innovation and competition in ocean-related research and education consistent with key initiatives in the Bush Administration's Ocean Research Priorities Plan and Implementation Strategy (discussed in the following section on "Administration Response and Implementation");
- enact legislation to authorize and fund the Integrated Ocean Observing System (IOOS);
- accede to the U.N. Convention on the Law of the Sea;
- establish an Ocean Trust Fund in the U.S. Treasury as a dedicated source of funds for improved management and understanding of ocean and coastal resources by federal and state governments;
- increase base funding for core ocean and coastal programs and direct development of an integrated ocean budget; and
- enact ocean and coastal legislation that progressed significantly in the 109<sup>th</sup> Congress.

An updated *U.S. Ocean Policy Report Card* for 2007 was released by the Joint Ocean Commission Initiative on February 27, 2008.<sup>32</sup> As it had done in 2005 and 2006,<sup>33</sup> the Joint Ocean Commission Initiative assigned grades for actions taken (or not) in 2007. The *2007 Report Card* showed modest progress in implementing recommendations of the U.S. Commission on Ocean Policy and the Pew Oceans Commission, with an overall grade of C, up from an overall average of C- in 2006. The *2007 Report Card* also highlighted the need for funding increases in the general areas of research, management, and infrastructure and the need for establishing an Ocean Trust Fund to support state and federal ocean agencies. A new category was added to the *2007 Report Card* for efforts to link oceans and climate change. Grades were provided for each of the following areas: national ocean governance reform (D); regional and state ocean governance reform (A-); international leadership (C+); research, science, and education (C-); fisheries management reform (C+); new funding for ocean policy and programs (D+); and links between oceans and climate change (C).

Since 2006, the Senate Committee on Appropriations has reviewed the U.S. Ocean Policy Report Card annually. In 2008, as in the previous two years, the committee agreed with the analysis and has taken the Commission's recommendations into account in developing the NOAA budget.<sup>34</sup>

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<sup>32</sup> Available at [http://www.jointoceancommission.org/resource-center/2-Report-Cards/2008-02-27\\_2007\\_Ocean\\_Policy\\_Report\\_Card.pdf](http://www.jointoceancommission.org/resource-center/2-Report-Cards/2008-02-27_2007_Ocean_Policy_Report_Card.pdf).

<sup>33</sup> Available at [http://www.jointoceancommission.org/resource-center/2-Report-Cards/2006-02-01\\_2005\\_US\\_Ocean\\_Policy\\_Report\\_Card.pdf](http://www.jointoceancommission.org/resource-center/2-Report-Cards/2006-02-01_2005_US_Ocean_Policy_Report_Card.pdf).

<sup>34</sup> Senate Committee on Appropriations, *Departments of Commerce, and Justice, Science, and Related Agencies Appropriations Bill, 2009*, S.Rept. 110-397, p. 22-23, June 23, 2008.

The committee recommendation would have provided \$4.44 billion for NOAA. This would have been \$549 million above the FY2008 enacted level of \$3.89 billion and \$342 million above the FY2009 budget request of \$4.10 billion.<sup>35</sup> The Omnibus Appropriations Act, 2009 (P.L. 111-8) funded NOAA at \$4.37 billion.

The Joint Ocean Commission Initiative remains active in promoting ocean policy reform through press releases, letters to and testimony before Congress, and public speaking engagements. Other recent actions include releasing a report titled *Changing Oceans, Changing World: Ocean Priorities for the Administration and Congress* and providing support for H.R. 21, for U.S. accession to the Law of the Sea Convention, and for proper environmental review of fishing regulations. Additional information about the Joint Ocean Commission Initiative may be found at <http://www.jointoceancommission.org/>.

## Issues for Congress

The 111<sup>th</sup> Congress will continue to consider whether and how to respond to the findings and recommendations of the Pew Oceans Commission report, *America's Living Oceans: Charting a Course for Sea Change*, and the report of the U.S. Commission on Ocean Policy, *An Ocean Blueprint for the 21<sup>st</sup> Century*. Over four years after the release of the U.S. Commission on Ocean Policy's report and more than five years after the release of the Pew Oceans Commission report, some progress on ocean policy reform has been made. However, hundreds of recommendations suggested by the two commissions have not been addressed.

## Legislation

The 109<sup>th</sup> Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) (P.L. 109-479), incorporating provisions reflecting many recommendations made by both commissions. These provisions address a broad array of topics, including dedicated access privileges, overfishing, and fish stock rebuilding as well as issues of concern to specific fisheries and regions. After its passage, the Joint Ocean Commission Initiative highlighted provisions related to enhancing the role of science, establishing sustainable harvest levels, authorizing the use of market-based approaches, and setting a clear deadline for ending overfishing. The Administration also emphasized provisions authorizing market-based limited access privilege programs, as well as language strengthening fisheries enforcement, developing ecosystem pilot programs, establishing community-based restoration programs, and creating a regionally-based registry for recreational fishermen.

The 109<sup>th</sup> Congress also considered bills on specific ocean topics, including ocean exploration; ocean and coastal observing systems; marine debris research, prevention, and reduction; and ocean and coastal mapping integration. Related issues considered whether to (1) provide additional funds for ocean-related research; (2) replace a fragmented administrative structure with a more coherent federal organization; or (3) adopt new approaches for managing marine resources, such as setting aside large reserves from some or all uses. Only one bill was enacted, the Marine Debris Research, Prevention, and Reduction Act (P.L. 109-449). This legislation established a program within NOAA and the U.S. Coast Guard to help identify, determine sources

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<sup>35</sup> Ibid.



of, assess, reduce, and prevent marine debris and its damage to the marine environment and navigation safety, in coordination with non-federal entities.

Early in the 111<sup>th</sup> Congress, H.R. 21, the Oceans, Conservation, Education, and National Strategy for the 21<sup>st</sup> Century Act, and a similar bill, S. 858, the National Oceans Protection Act of 2009, were introduced. H.R. 21, first introduced in the 108<sup>th</sup> Congress, would implement many recommendations of the Pew and U.S. Commission reports, by establishing a comprehensive national ocean policy for the management of U.S. coasts, oceans, and Great Lakes. The legislation would:

- establish a national ocean policy with emphasis on conservation of marine ecosystems;
- authorize NOAA;
- establish a national ocean advisor and federal advisory bodies on ocean policy; and
- strengthen and formalize regional coordination by promoting a regional governance structure;

Supporters of these bills have pointed to the need to improve ocean conservation because of stresses on marine ecosystems such as pollution, habitat destruction, invasive species, and overfishing. They believe that greater investments are needed to reflect the importance of oceans to our economy and well-being.<sup>36</sup> A coalition of Alaska fishing industry groups, however, questioned whether the proposed legislation would duplicate efforts, lead to more bureaucracy, conflict with other legal mandates, and result in confusion and litigation.<sup>37</sup> They would rather see greater focus on funding and implementation of current laws, such as the MSFCMA. On April 23, 2008, the House Natural Resources Subcommittee on Fisheries, Wildlife, and Oceans sent H.R. 21 to the full Natural Resources Committee, and on July 23, 2008, a similar bill, the National Oceans Protection Act of 2008 (S. 3314), was introduced in the Senate, but no further action was taken during the 110<sup>th</sup> Congress in either the House or the Senate.

It remains an open question whether the 111<sup>th</sup> Congress will act on this comprehensive approach to ocean policy or concentrate on specific subjects or issues. In addition to comprehensive ocean legislation, over 60 bills related to ocean and Great Lakes management, conservation, exploration, and research have been introduced. Furthermore, areas of Administration action, or inaction, are likely to continue to receive congressional oversight during the 111<sup>th</sup> Congress.

## **Additional Reading**

Buck, Eugene H., *Ocean Commission Reports: Side-by-Side Comparison of Provisions on Living Resources, Excluding Fisheries*, CRS Congressional Distribution Memorandum (September 30, 2004), 22 pp.

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<sup>36</sup> "Oceans Protection Bill Introduced in U.S. Congress," *Environment News Service*, <http://www.ens-newswire.com/ens/jan2007/2007-01-04-04.asp>.

<sup>37</sup> "Proposed Oceans 21 Bill Confounds Oceans Conservation Efforts, MCA Warns," *Marine Conservation Alliance*, Press Release April 23, 2007.

Buck, Eugene H., *Ocean Commission Reports: Side-by-Side Comparison of Fishery Provisions*, CRS Congressional Distribution Memorandum (October 4, 2004), 18 pp.

Gish, Ken, and Eric Laschever, "The President's Ocean Commission: Progress Toward a New Ocean Policy," *Natural Resources & Environment* (Summer 2004): 17-19, 79.

National Marine Sanctuary Foundation, *Capitol Hill Oceans Week 2006, Summary Report* (June 13-14, 2006) <http://www.nmsfocean.org/chow2006/index.html#1>.

Paul, Linda M. B., "The 2003 Pew Oceans Commission Report: Law, Policy, and Governance," *Natural Resources & Environment* (Summer 2004): 10-16.

U.S. Dept. of Commerce, President's Panel on Ocean Exploration, *Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration* (Washington, DC: NOAA, October 10, 2000), 64 pp.

U.S. Dept. of Commerce and Dept. of the Navy, *Oceans of Commerce, Oceans of Life*, Proceedings of the National Ocean Conference, June 11-12, 1998, Monterey, CA (Washington, DC: NOAA, 1998), 241 pp.

U.S. Dept. of Commerce, National Oceanic and Atmospheric Administration, Office of the Chief Scientist, *Year of the Ocean Discussion Papers*, March 1998, Prepared by the U.S. Federal Agencies with Ocean-Related Programs for the International Year of the Ocean (Washington, DC: GPO, 1998), 1 vol.

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