

An aerial photograph of a beach with waves crashing onto the shore. The sand is dark brown, and the water is a deep greenish-blue with white foam from the waves. The text is overlaid on the left side of the image.

CMSP Governance Structure

Options for Engaging Non- Governmental Partners

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Purpose of this Session

- ◎ **Gain your viewpoints** and creative ideas about forming an effective CMSP governance structure for the Northeast.
- ◎ **Understand what is identified** in the Executive Order and Final Recommendations for the National Ocean Policy regarding Regional Planning Bodies and options for regional advisory committees for CMSP.
- ◎ **Know the strengths and weaknesses** of forming Federal Advisory Committees versus less formal regional engagement mechanisms.

Regional Planning Bodies

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

Regional Planning Bodies

- Each regional planning body should make every effort to ensure representation from all states within a region, ideally through, or as part of, the **existing regional governance structures** created by or including the states to address cross-cutting issues, including regional planning.
- NOC would prepare guidance for regional planning bodies in meeting consultative process requirements to ensure consistency across regions.
 - NE Fishery Management Council
- Flexibility to develop sub-regional plans as long as plans are encompassed in overarching regional CMS plan.
- Ex-officio members can include adjacent states, inland states and bordering foreign countries.

Options for Engaging Non-government Partners

Option 1 – Formal Regional Advisory
Committees via FACA

Option 2 – Less formal scientific and
technical participation and
consultation mechanisms

Option 1: RACs via FACA

“The lead federal agency, or office for each **regional planning body** established for the development of regional coastal and marine spatial plans, in consultation with their nonfederal co-lead agencies and membership of their regional planning body, shall establish such advisory committees under the Federal Advisory Committee Act, 5 U.S.C. App., as **they deem necessary** to provide information and to advise the regional planning body on the development of regional coastal and marine spatial plans to promote the policy established in section 2 of this order.”

-Executive Order

Role of Federal Advisory Committees

- With expertise from advisory committee members, federal officials and the nation have access to information and advice on a broad range of issues affecting federal policies and programs.
- In return, the public has an opportunity to participate actively in the federal government's decision-making process.

When Does FACA Apply?

FACA Applies...

when intent is to seek advice, opinions or recommendations from the committee acting in a collective mode.

FACA Does Not Apply...

when the intent is to obtain information or viewpoints from individual committee members.

If FACA

Establishment:

- ◎ The Administrator is authorized to establish advisory committees to advise him/her on functions vested in the Administrator by the Federal Property and Administrative Services Act, or other GSA authorizing legislation.
- ◎ Committees which advise the Administrator also may be established by specific statutory language.
- ◎ No advisory committee can meet or take action prior to submitting a charter with the Administrator.
- ◎ The charter must contain the committee's designation, its objectives, its duration, the official to whom it reports, the agency or organization providing support, the duties of the committee, estimated operating costs, estimated number of meetings, and its termination date.

If FACA

Members:

- ◎ The membership must be balanced in terms of points of view represented and the functions to be performed by the committee.
- ◎ Members are subject to ethics laws if they are appointed because of their personal knowledge, background or expertise. They are not subject to ethics laws if they are appointed to represent the point(s) of view of a particular group or segment of the public.
- ◎ Members usually are entitled to reimbursement for travel and per diem expenses. FACA also provides for direct compensation, but many members serve gratuitously.

If FACA

Meetings:

- ◎ Must have 15 days advance notice in the Federal Register.
- ◎ Must be open to the public unless limited statutory bases for closure apply.
- ◎ Must have a Designated Federal Officer in attendance.
- ◎ Must have minutes which are available for public inspection (except for portions of a meeting which was closed).

If FACA:

Committee Management Officer and Designated Federal Official:

FACA requires each agency sponsoring a federal advisory committee to appoint a Committee Management Officer to oversee the administration of the Act's requirements.

In addition, a designated federal official must be assigned to each committee to:

- Call, attend, and adjourn committee meetings;
- Approve agendas;
- Maintain required records on costs and membership;
- Ensure efficient operations;
- Maintain records for availability to the public; and
- Provide copies of committee reports to the Committee Management Officer for forwarding to the Library of Congress.

Option 2 – Less formal scientific and technical participation and consultation mechanisms

- Develop new science and technical public-private partnership
- Use existing regional body
- Other?

Breakout Questions

FORMAL OPTION (Regional Advisory Committee via FACA):

- What are the pros and cons of using FACA?
- Is it appropriate for CMSP work?

LESS FORMAL (Regional scientific participation and consultation mechanisms):

- What are the pros and cons of this model?
- How can the RPB work with existing science/technical groups or which existing groups can be used to serve this purpose?
- What sort of models might work best for this region?
- Functionally, what needs to be in place for this to work (communication, coordination, technology)?