

**CALENDAR ITEM  
C61**

A	Statewide	12/06/16
S	Statewide	J. Mattox

**CONSIDER CHARTER APPROVAL, SIGNATORY, AND MEMBER DESIGNATION  
FOR PARTICIPATION ON THE WEST COAST REGIONAL PLANNING BODY  
PURSUANT TO THE U.S. NATIONAL OCEAN POLICY**

**INTRODUCTION**

The State Lands Commission has exclusive jurisdiction over all ungranted tidelands and submerged lands and the beds of navigable lakes, rivers, and streams owned by the State (Public Resources Code section 6301, et seq.). The Commission manages approximately 4 million acres of these sovereign lands in trust for the benefit of the statewide public subject to the common law Public Trust Doctrine, including those tidelands and submerged lands that extend from the shoreline to three nautical miles offshore along California’s beautiful and dynamic coastline.

Regional Planning Bodies (RPB) were formed as part of Executive Order 13547 in 2010, which also established the National Ocean Policy and its companion Council. The National Ocean Policy encourages development of a "comprehensive, adaptive, integrated, ecosystem-based, and transparent planning process" for existing and future ocean uses that would protect ocean, coastal, and cultural resources and maintain public access to these resources. In 2013, the Council released the National Ocean Policy Implementation Plan, which seeks to *“translate the National Ocean Policy into on-the-ground actions...to bolster our ocean economy, improve ocean health, support local communities, strengthen our security, and provide better science and information to improve decision-making.”* The Council established nine RPBs nationally; each RPB is comprised of federal and state agencies, regional entities such as the Pacific Fishery Management Council, and representatives of federally recognized tribal governments.

**WEST COAST CHARTER AND 2016 MEETING**

The West Coast RPB includes the states of Washington, Oregon, and California. The [Charter document](#) (Exhibit A) memorializes membership and acts as the starting point of the RPB process. After approving and signing the Charter, each federally-recognized tribal government and federal agency will fill one seat on the RPB, while signatory state governments may fill up to two seats. The State

CALENDAR ITEM NO. **C61** (CONT'D)

Lands Commission and the Ocean Protection Council fill the two seats of the State of California on the West Coast RPB. Approval of the Charter and participation in the RPB, as well as adoption of any resulting products or plans, is entirely voluntary for state and federally-recognized tribal governments. The Charter document outlines the goals of the West Coast RPB, which are consistent with those developed by the National Ocean Council and will be refined over time as the RPB undertakes planning efforts and identifies sub-regional activities and objectives. Marine planning goals for the West Coast Region include:

- Support sustainable, safe, secure, efficient, productive and respectful uses of the ocean and our coasts, including those that contribute to the economy, commerce, culture, recreation, conservation, homeland and national security, human health, safety, and welfare;
- Protect, maintain, and restore regional ocean and coastal resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;
- Protect and enhance cultural resources throughout the West Coast Region, and use this partnership to enhance awareness and dialog around important cultural aspects of marine resources in the region;
- Provide for and maintain public access to the ocean and coasts;
- Promote compatibility among uses and reduce user conflicts and environmental impacts;
- Improve the rigor, coherence, efficiency, and consistency of decision making and regulatory processes through efforts of member governments;
- Increase certainty and predictability in planning for and implementing new investments for ocean and coastal uses; and
- Enhance interagency, intergovernmental, and international communication and collaboration.

The 2016 West Coast RPB Annual Meeting was held in Portland, Oregon on October 26<sup>th</sup> and 27<sup>th</sup>. Commission staff attended as a pending member of the RPB and participated in the “state agency caucus” where the designees from each of the member states exchanged ideas and discussed current planning efforts. Topics of discussion included the West Coast RPB draft Work Plan and Core Functions, the draft Communications & Engagement Plan, and a draft framework for potential sub-regional planning approaches. Staff believes that membership on the West Coast RPB complements and enhances the

CALENDAR ITEM NO. **C61** (CONT'D)

Commission's existing efforts to develop a pilot ocean planning tool in partnership with the San Diego Unified Port District. The Commission approved a Memorandum of Agreement between the Commission and the Port to begin this process on October 13, 2016 ([Calendar Item 64](#)).

**OTHER PERTINENT INFORMATION:**

1. This action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values, particularly amid challenges relating to climate change, sea-level rise, public access, and complex land use planning and marine freight transportation systems.
2. The authorization to sign the RPB Charter is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

**EXHIBIT:**

- A. West Coast Regional Planning Body Charter, February 2016.

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**AUTHORIZATION:**

Authorize the Executive Officer, or her designee, to accept membership on the West Coast Regional Planning Body, execute the Charter (substantially in the form attached as Exhibit A), and designate a primary and alternate member representative.

# West Coast Regional Planning Body

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## CHARTER

### Introduction

Presidential Executive Order 13547, signed in July 2010, established the first *National Policy for Stewardship of the Ocean, our Coasts, and the Great Lakes*. The National Ocean Policy (NOP) encourages a comprehensive, adaptive, integrated, ecosystem-based, and transparent planning process based on sound science for analyzing current and anticipated uses of ocean and coastal areas. The approach is driven by the formation of Regional Planning Bodies in nine regions of the United States. West Coast Regional Planning Body (RPB) members will develop planning products driven by the specific needs of their geography along the West Coast by building on existing efforts and identifying specific planning needs at the regional and sub-regional scale.

The West Coast has a number of unique characteristics to be addressed by the RPB, ranging from the large geographical scale of the region to varied and often overlapping governance structures and jurisdictions, including many sovereign tribal nations. These challenges necessitate better coordination among state, regional, federal and tribal ocean policy and planning initiatives and decision-makers.

Sovereign tribal governments may, as each tribe deems appropriate and acting in its sovereign capacity, view the National Ocean Policy and resulting ocean planning products of the RPB as an element in the federal government's Trust Responsibility to federally-recognized sovereign Indian Tribes. The alignment and synchronization of federal responsibilities and authorities will help to enable the participation of tribal governments in multi-party government to government consultation with appropriate federal decision-makers to address tribal ocean interests in the marine environment and related natural resource issues. The tribal, state, and federal signatories to this charter acknowledge that the regional planning process carried out by the Regional Planning Body may be inclusive of other priorities articulated as part of the National Ocean Policy.

The West Coast RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct federal, state, tribal, or local entities; nor does membership constitute a delegation of decision making or legal authority to West Coast RPB members. Further, participation on the West Coast RPB does not commit any non-federal member, or non-federal government represented by a member, to adopt resulting products or plans. Nothing in this Charter may be construed to obligate federal agencies to any current or future expenditure of money in advance of the availability of appropriations for such purposes from the U.S. Congress.

### Purpose & Objectives

The West Coast Regional Planning Body (RPB) provides a voluntary forum for dialog, information-sharing and coordination of marine and coastal planning and management activities at various scales along the Pacific Coast of the United States (exclusive of Alaska) among federally-recognized tribal governments, state and federal agencies, the Pacific Fishery Management Council (PFMC) and other entities, as appropriate. The RPB will focus on enhancing existing marine planning activities through effective coordination and communication. The RPB will also identify management gaps appropriate for a marine planning approach through clearly-defined criteria agreed to by RPB members.

The RPB will focus on marine planning and other relevant approaches to support more effective government coordination and enhanced management of ocean and coasts in the region. The RPB will coordinate with parallel ocean partnerships focused on enhancing solutions to ocean health issues facing the West Coast. The membership of a prospective regional ocean partnership for the West Coast may be different from that of the RPB, but all efforts undertaken by the RPB will include the goal of enhanced coordination with other regional ocean activities among tribal, state and federal partners. Nothing in this charter document is binding to anything other than RPB-specific activities, and any foundational documents of other regional ocean partnerships will not explicitly impact this charter without consensus and adoption by full RPB membership.

The RPB will ensure that there is appropriate and robust public engagement during all phases of its work at the regional and sub-regional scales. Frequent engagement with coastal stakeholders and other partners will serve as a core element of the RPB's activities. A stakeholder engagement plan will be developed by the RPB, and evaluated and refined over time with input from the public.

## Marine Planning Goals

### Marine Planning Defined

Marine planning is a natural and social science-based tool that coastal regions can use to address specific ocean management challenges and advance economic development, conservation and other objectives. Marine planning will support regional and sub-regional actions and decision making, as well as address relevant management priorities based on the needs, interests, and capacity of a given region or sub-region. Marine planning is intended to provide more coordinated and responsive federal engagement with state and tribal government partners, and the opportunity for all coastal and ocean interests in the region and sub-regions to share information and coordinate activities.

The goals listed here serve as foundational elements of the West Coast RPB, and are consistent with those developed by the National Ocean Council. The goals will be refined over time as the RPB undertakes strategic planning and identifies regional and sub-regional activities for the West Coast:

- Support sustainable, safe, secure, efficient, productive and respectful uses of the ocean and our coasts, including those that contribute to the economy, commerce, culture, recreation, conservation, homeland and national security, human health, safety, and welfare;
- Protect, maintain, and restore regional ocean and coastal resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;
- Protect and enhance cultural resources throughout the West Coast Region, and use this partnership to enhance awareness and dialog around important cultural aspects of marine resources in the region;
- Provide for and maintain public access to the ocean and coasts;
- Promote compatibility among uses and reduce user conflicts and environmental impacts;
- Improve the rigor, coherence, efficiency, and consistency of decision making and regulatory processes through efforts of member governments;
- Increase certainty and predictability in planning for and implementing new investments for ocean and coastal uses; and
- Enhance interagency, intergovernmental, and international communication and collaboration.

Action items and planning products to achieve these broad goals, including building on existing marine planning efforts within the region, will be developed and agreed to by the RPB and included in a more detailed work plan that builds on this charter.

### Relationship to Existing Authorities

The process and decision making that the National Ocean Policy envisions for regional ocean planning will be carried out under the authority of existing law. Regional marine planning cannot supersede existing laws and agency authorities; rather, it is intended to provide a better mechanism for application of existing laws and authorities. As needed, RPB members will provide an overview of their existing mandates and authorities to better understand the existing legal and regulatory framework that the RPB will work within.

Neither a regional nor a sub-regional marine plan would be regulatory nor, by itself, constitute final agency decision making or final agency action under any regulation or federal law. Any regional or sub-regional marine plan developed through the activities of the RPB will be intended to guide and inform agency decision making and Federal agencies would seek to adhere to the regional or sub-regional plan to the extent possible consistent with their existing authorities. State and tribal governments may determine their own approaches to using regional or sub-regional marine planning products to guide management and decision making.

### West Coast Regional Approach

The geographic scope of the RPB efforts includes the exclusive economic zone (EEZ) off the continental U.S. West Coast between Mexico and Canada and extends landward to the mean high-water line. Additional inland estuarine and marine areas not located on the outer West Coast of the U.S. may be included as deemed appropriate and agreed to by the RPB. This area is herein referred to as the West Coast Region.

The large geographic scale, multiple governance structures and range of planning issues make the West Coast a unique region when compared to other areas of the U.S. where RPBs have been established. As a result, an approach that effectively addresses the scale of the West Coast while ensuring meaningful engagement among federal, state and federally-recognized tribal governments and stakeholders is required.

Rather than attempting to create a single region-wide marine plan, the West Coast regional approach will coordinate and harmonize marine planning activities taking place at sub-regional scales. Marine plans developed by the sub-regional planning teams will be presented to the full RPB membership for discussion, feedback and adoption. The RPB will develop a process to ensure sub-regional planning products are consistent with the National Ocean Policy to the maximum extent practicable while reflecting sub-regional needs. Likewise, the RPB will work to ensure that sub-regional marine plans reflect the regional Goals and Objectives set forth in this Charter. Over time, it is intended that sub-regional marine plans will cover the entire West Coast region, and this multi-part approach will serve as the region-wide planning product for the West Coast RPB.

### West Coast Sub-Regional Approach

Marine planning activities for the West Coast region will largely be focused on a sub-regional scale. Sub-regional planning teams will work to bring together tribal, federal and state governments, along with local government and stakeholders as determined by each sub-region, to determine appropriate

approaches for each sub-region. The full RPB will serve to ensure harmony among sub-regional approaches and subsequent sub-regional planning products.

While the regional marine planning for the West Coast will follow broad goals, sub-regional marine planning goals will be determined and approved by each sub-regional marine planning team. Sub-regional goals will be specific to each part of the coast based on ecological, cultural, physical, social and economic attributes. Planning activities within each sub-region will build upon existing tribal, federal, state and local authorities and efforts, where applicable, and fully account for current and future proposed ocean uses to the maximum extent practicable.

The timing for development and initiation of sub-regional marine planning teams throughout the West Coast region will be flexible, and based on ongoing dialog among the full RPB membership. Sub-regional planning team formation will be based on explicit needs for marine planning approaches as identified by state and tribal RPB members, but also be responsive to capacity of state and tribal governments and their staff. Engagement and participation in sub-regional marine planning activities may vary among partners based on timing and planning products.

This charter will be updated with an addendum for each sub-region that forms a sub-regional planning team. Each addendum will include geographic boundaries, membership and a sub-regional charter (or similar documents) for each sub-regional area and planning team. While sub-regional plans will serve as the foundational products for the West Coast regional marine plan, the full RPB may address those issues that cross one or more sub-regional boundaries as appropriate. These issues may be identified as region-wide and brought to the full RPB membership for review and possible planning action(s). The full RPB membership will also be given opportunity to provide comment and feedback on sub-regional planning products developed throughout the region.

## Member Commitments

West Coast RPB members agree, to the extent practicable and consistent with their underlying authorities, to participate in the process for regional and sub-regional marine planning as described in this charter. The members agree that the commitments contained in this charter are not enforceable and do not create legal obligations or affect existing rights. RPB members will discuss their respective legal authorities, requirements, and processes and how they can be better applied in the context of regional and sub-regional marine planning. The activities of the RPB are not a substitute for formal government-to-government consultation requirements between the federal government and each federally-recognized tribal government.

The marine planning framework to be undertaken by the West Coast RPB will allow for phased implementation of planning activities at the sub-regional level, based on the capacity and interest of its membership within sub-regions of the West Coast. The full RPB will provide guidance and feedback for sub-regional membership and review operational plans developed by sub-regions to guide marine planning activities and local government and stakeholder engagement. Sub-regional criteria for membership will be modeled after criteria used for region-wide membership, but tailored to the needs and engagement approaches most appropriate for each sub-regional area identified. Each sub-region will determine the appropriate commitment requirements for its respective membership and planning partners.

# Operations & Procedures

## Membership

The membership of the West Coast RPB consists of federally recognized tribes, federal and state government and Pacific Fishery Management Council representatives that have been selected to represent the marine planning interests of each member entity. RPB member representatives, including a primary and alternate, will be selected and identified through a formal endorsement from each member entity, such as a letter or resolution. Member representatives will have an appropriate level of responsibility within their respective governing body to be able to review materials and either make or deliver decisions and commitments throughout the process, or consult with leadership and constituents on such issues within each entity's respective approval processes. In addition to their primary and alternate representatives, federal, state and tribal government members may include officials or staff from their relevant entities to contribute to RPB activities and meetings, as appropriate. Each member will determine its own approach to membership on the RPB as a reflection of their commitment to the marine planning process for the West Coast region.

Members of each sub-region will formally develop and sign their own sub-regional charters or agreement to define and commit to sub-regional membership and participation. RPB staff will support the organization and coordination of sub-regional activities to harmonize the development of a region-wide marine planning approach. RPB members and staff will assess, support and coordinate planning and membership needs in each sub-region and appropriate solutions will be pursued to the maximum extent practicable.

Marine planning approaches occurring at sub-regional scales may fall within state or other appropriate boundaries, and/or include federal and tribal treaty, executive order, and traditional use areas. Local government representatives will be engaged at the sub-regional level, with state and tribal government members reaching consensus on appropriate mechanisms to formally or informally involve local government representatives and other stakeholders, as applicable and agreed to by sub-regional team members.

Under the parameters outlined in the National Ocean Policy Implementation Plan, non-federally recognized tribal governments and tribal organizations will not be formally included as members of the RPB or sub-regional planning teams. Federally-recognized tribal governments and/or state governments may choose to engage with non-federally recognized tribal governments or organizations in their respective sub-region, and provide input on marine planning activities at the regional or sub-regional levels on their behalf.

## Federal Government Members

Each participating federal agency will identify a designee and alternate to serve as member on the RPB and represent their respective agency's mandates and goals in marine planning discussions. Federal members are to be policy and program subject-matter experts with sufficient seniority and expertise to represent their agencies on the RPB. While it is recognized and agreed by all parties to this charter that Federal representatives do not have authority to direct all relevant actions in their respective agencies, they will be responsible for encouraging regional consistency with national policy programs and agency activities. As the RPB develops and refines its regional and sub-regional activities, it is expected that federal members will bring the full capacity of their agencies to the initiative by involving additional appropriate federal colleagues with needed expertise.

Federal members may provide data, resources, and tools applicable to regional planning challenges and help identify legal authorities relevant to their participation. They will work to ensure coordination of federal agency actions and programs in support of West Coast marine planning goals and objectives and harmonize marine planning products. It is recognized and agreed by all parties signatory to this charter that federal agencies cannot direct actions by tribal or state decision makers.

Federal member agencies include:

*{Added with each signatory}*

### Tribal Government Members

The RPB acknowledges the sovereign status of all federally recognized tribal governments within the West Coast Region and is aware that determination of rights to land, water, cultural and natural resources varies among tribes and across states. The federal government has a unique legal relationship with federally-recognized tribes as provided by the U.S. Constitution, as well as through existing treaties, executive orders, federal court decisions, and federal policy and federal statutes. The federal government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with tribal governments. Based on that trust relationship, the federal government has committed to maintaining government-to-government relationships with tribal governments.

Tribal governments, some of which hold treaty rights to ownership and use of coastal and marine resources, are co-managers and stewards of marine resources and an integral part of resource management and marine planning. Each federally recognized tribe may voluntarily have its own membership seat on the RPB to represent its respective sovereign interests, mandates, and goals in effective marine planning processes and outcomes. The tribal representatives and their alternates may be elected officials, duly appointed tribal officials or designated employees or contractor authorized to act on the tribe's behalf on RPB matters.

The National Ocean Policy explicitly recognizes the importance of enhanced coordination with federally-recognized tribal governments, specifically as it pertains to protection of the tribes' inherent sovereign powers and rights, and supports the preservation of the Nation's heritage, including historical and cultural values. As partners in the regional marine planning process, tribes will share their expertise in marine natural resource management, harvest practices, and law and policy, along with unique principles of traditional knowledge as relevant to regional and sub-regional marine planning. Tribal representatives may also provide data, resources and other tools applicable to regional or sub-regional marine planning and help harmonize effective marine planning products. However, tribal representatives are not required to share culturally sensitive or confidential information.

Through this partnership, tribal representatives can help all participants better understand treaty rights and tribal authorities, traditional knowledge of and care for marine ecosystems, and tribal scientific efforts. The participation of any tribal government in the RPB in no way supplants the obligation of the federal government to additionally or separately conduct government-to-government consultation with potentially or directly affected federally-recognized tribes. The participation of any tribal government in the RPB in no way diminishes, alters, or affects the rights or interests of those tribal governments.

Tribal government members include:

*{Added with each signatory}*

### State Government Members

State government members will represent their respective states' interests, mandates, and goals in the work of the RPB at the regional and sub-regional levels. State members are typically elected executive branch officials or their designated employee authorized to act on his or her behalf on RPB and marine planning-related matters. Each State government may designate up to two members to serve as official representatives on the RPB from his or her respective state.

State members may provide data, resources, and tools that may be applicable to regional planning challenges and help identify state legal authorities relevant to their participation. State members will work to the maximum extent practicable to pursue effective coordination of state actions and programs in support of West Coast marine planning goals and objectives.

State government members include:

State of Washington

State of Oregon

State of California

### Pacific Fishery Management Council Member

The Pacific Fishery Management Council (PFMC) shall have a member seat in the RPB to provide a formal mechanism to incorporate fishery-related issues into the RPB and regional marine planning dialog. The PFMC will identify a primary and alternate representative to fill its member seat. Including the PFMC as an RPB member is appropriate in light of the PFMC's unique statutory responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act. However, the RPB and any corresponding planning products will not directly affect or modify existing fishery management processes or functions carried out by the PFMC. The PFMC member will have specific knowledge of fishery marine resources and management in West Coast ocean and coastal areas. The PFMC RPB member shall serve solely as a representative of the PFMC and not concurrently represent another government entity.

### Ex-Officio Members

Recognizing the West Coast Region shares maritime boundaries with Canada and Mexico, invitations for non-voting ex-officio membership or observer status may be sent to appropriate representatives in Canada and Mexico as determined appropriate by RPB membership. Other ex-officio members representing additional relevant interests in West Coast marine planning may be determined as necessary by RPB membership, including non-federally recognized First Nation and tribal governments or entities, if applicable.

Ex-officio members are expected to participate in discussions, share perspectives, and offer expertise, on their own behalf. When the RPB seeks consensus on an issue or issues pertaining to regional ocean planning on the West Coast ex-officio members will formally act as observers and not have voting privileges.

## RPB Coordination & Leadership

### Executive Secretariat

An Executive Secretariat shall facilitate region-wide coordination and communication around regional and sub-regional marine planning activities on the West Coast. The Executive Secretariat may consist of at least a single federal co-lead, single state co-lead, and single tribal co-lead. Any subset of members (federal, state or tribal) may choose to have more than one co-lead to better facilitate

operations of the RPB.

The co-leads as a group shall not have any decision making authority over marine planning processes at the regional or sub-regional level beyond their role as member of the RPB, nor will any single co-lead provide formal marine planning input on behalf of the larger group of government entities they represent. Federal members shall select the federal co-lead, state members shall select the state co-lead, and tribal government members shall select the tribal co-lead. If any one group cannot reach consensus on selecting a single co-lead, they may choose to include more than one co-lead on the Executive Secretariat, or have no co-lead.

Co-leadership will be rotational and based on a two-year term (with no limits on consecutive terms). Co-leads may be re-elected or replaced through an approach determined appropriate by each governmental group. Co-leads have no financial obligation to support the operations of the RPB, nor will they receive financial compensation from the RPB for their direct activities acting in this capacity from the RPB itself.

In consultation with full RPB membership, the Executive Secretariat may consider and decide how to fulfill the following roles and responsibilities:

- Guide and facilitate dialog and coordination of marine planning processes at the regional level.
- In coordination with RPB staff, oversee Executive Secretariat functions including preparing and reviewing meeting materials, leading meetings, communicating with the National Ocean Council (NOC), and contributing to other administrative duties, as appropriate and necessary.
- Coordinate review of existing regional ocean governance structures and regulatory and planning authorities as they relate to marine planning to the maximum extent practicable.
- Provide initial review of RPB products and ensure effective input and feedback.
- Coordinate with RPB members to establish working groups as needed, comprised of members or their designated representatives, and other experts as necessary.
- Promote collaboration among all RPB members.
- Seek to resolve disputes that arise during dialog around marine planning processes within the region.

### Technical Committee

The RPB may choose to establish a standing technical committee comprising scientific and technical experts from the PFMC, West Coast Ocean Data Portal, or other appropriate governmental or non-governmental scientific and technical experts from the region, which may include those within RPB membership. The purpose of the technical committee is to identify and prioritize best available science that informs the RPB activities related to marine planning at the regional and sub-regional levels.

### Data Coordination

The compilation, coordination and sharing of technical data related to marine planning at the regional and sub-regional level(s) will provide the foundation for effective planning products of the RPB. To the maximum extent practicable the RPB will investigate existing mechanisms for coordinating and providing regional and sub-regional data and information to the planning process. The RPB anticipates that the West Coast Ocean Data Portal and Network will serve as the primary mechanism for coordinating and providing regional and sub-regional data and information to the planning process and will communicate and support the Portal and Network as regional and sub-regional data and technology needs emerge. Data coordination and sharing undertaken to support RPB processes and

products will focus on increasing accessibility and connectivity of ocean data and people to help inform regional resource management, policy development and planning. While striving for data coordination, RPB members reserve the right to maintain the confidentiality of sensitive data and information.

## Consensus Building

The activities of the RPB will focus on building consensus for effective regional and sub-regional marine planning in the West Coast region, including identification of marine planning needs and planning products that will enhance the activities of RPB members.

To reach consensus, the RPB decision making process will be as follows:

- With input from full RPB membership, the Executive Secretariat and RPB staff will facilitate a balanced discussion of the marine planning issue at hand.
- After discussion of the issue, the Executive Secretariat will consult with the full RPB membership to see what areas of consensus have emerged, if any. RPB members may state what, if any, areas of consensus they believe exist.
- The Executive Secretariat will then ask RPB members to indicate verbally (in person or remotely) whether they are in consensus on a given decision:
  - in full agreement;
  - not in full agreement but can respect the decision of the rest of RPB members;
  - cannot agree.
- Full consensus of the RPB is reached when every RPB member is in full agreement with a given decision.
- General concurrence of the RPB is reached when every RPB member agrees with each of the following:
  - I believe that other RPB members understand my point of view;
  - I believe that I understand other RPB members points of view;
  - Whether or not I prefer this decision, I support it because it was arrived at openly and fairly and is the best solution for the RPB at this time.
- RPB members will be considered as abstaining from a decision if they do not respond to written or verbal requests for a response within 60 days of the first request from RPB staff and/or Executive Secretariat, whichever is earliest.
- When full consensus or general concurrence is reached by RPB membership, it will be recorded as the decision of the RPB by the Executive Secretariat and RPB staff. A RPB member may register his or her concern with a co-lead about a proposed course of action either orally or in writing without preventing general concurrence from being reached.

## Sub-Regional Planning Teams

Based on dialog among the full RPB membership, RPB members may choose to form sub-regional planning teams for sub-regions within the West Coast region for a defined geographic area.. Sub-

regional planning team formation will be entirely voluntary for any sub-region on the West Coast, and the structure and function of each sub-regional planning team will mirror that of the full West Coast RPB to the maximum extent practicable.

Requests for formation of a sub-regional planning team may come from state or tribal government members of the full RPB. All sub-regional planning teams must allow for participation from any representatives from federally-recognized tribal, state or federal government in the sub-region that choose to participate. Participation in a sub-regional planning team is voluntary, and no state or tribal government within a sub-region is required to participate in sub-regional planning activities. Under the National Ocean Policy, federal government agency representatives will engage with state and tribal government partners on marine planning activities to the maximum extent practicable or as may also be required by law.

Once a request for formation of a sub-regional planning team has been submitted to the full RPB, RPB members in each sub-region will work together to identify priority marine planning issues and appropriate sub-regional planning team membership. The sub-regional planning team will develop and adopt its own sub-regional charter document or similar agreement, which may be based on the full West Coast RPB charter, as applicable. Sub-regional planning teams must reach general concurrence on any sub-regional charter documents proposed, and present the sub-regional charter to full RPB membership for review and concurrence that the charter meets criteria set out by the National Ocean Policy.

## Regional and Sub-regional Boundaries

*Sub-regional Addendums will be added when formed, following the signature of full RPB membership to this charter.*

## Additional Terms

### Procedural Elements

#### Quorum

A quorum for each remote or in-person meeting is a majority (>50%) of the official representatives or their alternates from each political subdivision (i.e., Federal, State, and tribal) participating in this partnership either physically or remotely (through phone or electronic means). Administrative actions or decisions cannot be passed without a quorum present.

#### Decision Making

RPB members will make a number of decisions throughout the planning process. An early task of the full RPB membership will be to discuss and determine various levels of decisions to be made, including the types of administrative actions that may not require consensus, and those more substantively focused on regional and sub-regional marine planning that would require consensus. With the help of the Executive Secretariat and RPB staff, decisions requiring consensus of the full RPB membership shall provide for input allowable either in person and/or remotely throughout the region. For purposes of this Agreement, consensus is reached through the process defined within this charter under “Consensus Building.” If needed, an addendum will be attached to this charter once the RPB has a dialog around levels of decisions and associated requirements for consensus.

## Dispute Resolution

All decisions and consensus reached by RPB members will be carried out through existing legal and regulatory frameworks already in place.

The RPB members will seek to resolve disputes regarding the development of regional and sub-regional marine planning products in order to achieve more effective marine planning in the region. For purposes of this charter, a dispute is defined as the inability of the members to reach full consensus or general concurrence. During any RPB discussion, tribal, state or federal members may call for a separate caucus to have private dialog among their respective government membership.

If disputes cannot be resolved by dialog among members within the structure of the RPB itself, other alternatives will be sought out to facilitate effective resolution. RPB members will collectively determine an approach for resolving the dispute. Outside of the RPB, it is preferred that the Udall Foundation's U.S. Institute for Environmental Conflict Resolution (ECR) will be contacted first to provide collaboration advice and to potentially provide contracted conflict resolution assistance. ECR is an independent and impartial federal agency with experience providing collaboration and conflict resolution support on regional marine planning efforts. If the disagreeing parties cannot agree to using ECR as facilitator for disputes among RPB members, other bodies may be approached as determined appropriate by federal, tribal or state governments. Nothing herein prevents a member entity from seeking legal recourse for a cause of action recognized by the courts.

If one or more dissenting opinions from RPB members remain after all attempts at resolution have been exhausted, the RPB membership will determine on a case-by-case basis whether to table the proposal or pursue alternative action related to RPB activities.

The members agree, to the extent practicable and consistent with their underlying authorities, to participate in the process for marine planning as described in Executive Order 13547 and consistent with Executive Order 13175 relating to government-to-government consultation with tribes.

Nothing in this process constitutes a delegation of state, tribal, or local government decision making authority to the regional planning body, its co-leads, the National Ocean Council (NOC) or its sub-bodies, the NOC Governance Coordinating Committee<sup>1</sup>, or any other entity. The marine planning dispute resolution process shall be non-binding and in no way alters, undermines, or supersedes non-federal legal authority, including jurisdiction or decision making over a matter. The dispute resolution process outlined herein shall not constitute or be construed as a waiver of sovereign immunity by any member of the RPB for any purpose.

## Administrative Provisions

This charter shall be in effect for each signatory on the date of receipt of their signature and member designation. Additional signatories may be added over time.

The members of this partnership may decide by consensus to dissolve this body if it is no longer in operation.

The members may modify this charter by developing and reaching consensus on a written amendment. If changes occur within the National Ocean Policy or other regionally-relevant policies or efforts that would impact this charter, the authority of this partnership pertaining to mandated roles of a regional planning body, or otherwise, a new charter may be drafted and members can revoke their participation in this partnership.

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<sup>1</sup> National Ocean Council Governance Coordinating Committee; see <https://www.whitehouse.gov/administration/eop/oceans/about>

A change in membership does not require execution of a new charter. A federal agency, state, or tribe, joining the RPB as member after execution of this charter will be asked to sign the charter.

A non-federal member may withdraw from this charter by providing reasonable written notice to the Executive Secretariat. Withdrawal from this charter by a federal member requires notice to the Federal co-lead, and subsequent concurrence by the NOC's Deputy-level Committee.

### Impact on Existing Authorities

Nothing in this charter removes, limits, or otherwise affects the rights or interests of a federally-recognized tribe, including its respective treaty rights, co-management authority, authority over its membership, jurisdiction over its lands, waters and airspace, and/or the right to government-to-government consultation with the U.S. Governments.

Nothing in this charter removes or otherwise affects the rights of a state, territory, or commonwealth.

Nothing in this charter shall be construed to impair or otherwise affect authority reserved by or granted to the states or the tribes under the Constitution and laws and treaties of the United States or by law to a federal executive department or agency or head thereof; or functions assigned by the President to the National Security Council or Homeland Security Council (including subordinate bodies) relating to matters affecting foreign affairs, national security, homeland security, or intelligence.

This charter in no way restricts the members from participating in any activity with other public or private agencies, organizations, or individuals.

This charter is neither a fiscal nor a funds-obligation document. Nothing in this charter authorizes or is intended to obligate the members to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.

This charter is subject to, and will be carried out in compliance with, all applicable laws, regulations and other legal requirements.

Members are not required to delay decision-making under current statutory authorities, including but not limited to regulatory permitting and approval processes, while marine planning activities are underway.

## Signatories

[Signatures of the members or their duly authorized representatives -- each member will sign the charter.]