



## Appendix 1

# Overview of U.S. Ocean Governance

## Briefing for Participants of Blue Future 2017

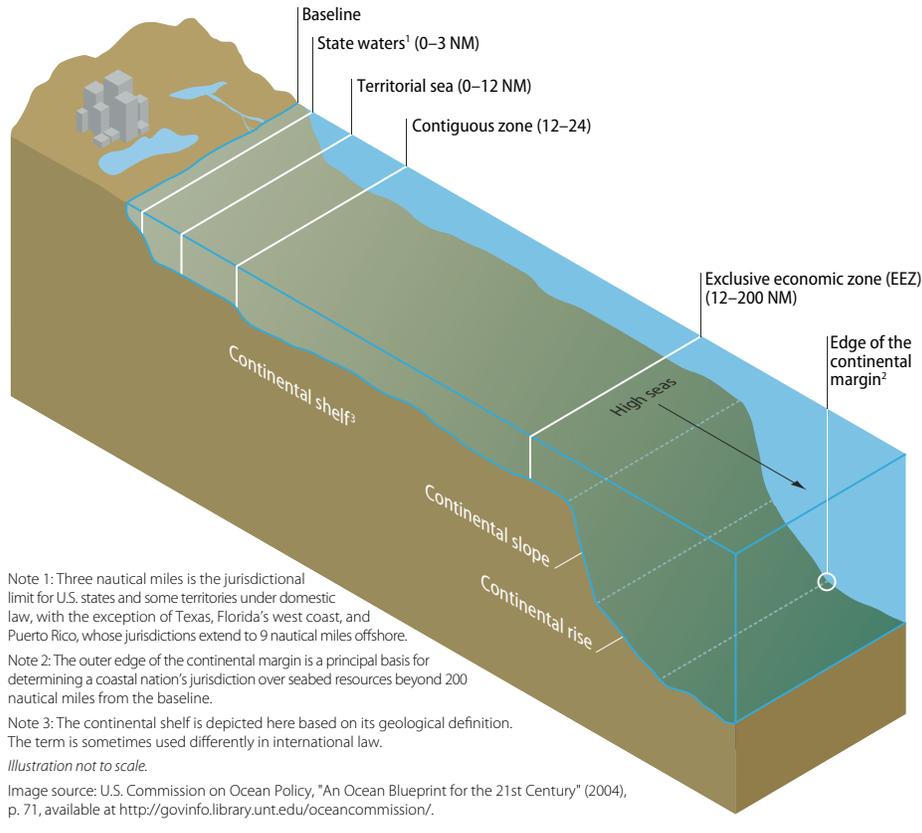
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U.S. coast and ocean governance is diverse and multifaceted, with literally dozens of legally relevant agencies, Native American tribal nations, and private stakeholders all interacting within the legal framework established by a diverse body of laws passed by state legislatures and the U.S. Congress. Further complicating matters, jurisdiction over ocean spaces, subsea lands, and living and marine resources is divided between federal, state, and tribal governments, across a multitude of political boundaries.

Due to these diverse governmental equities, U.S. ocean governance is often characterized by tension and careful negotiation among multiple parties. Agencies jostle for jurisdictional pre-eminence when faced with novel or complex challenges; ocean stakeholders advocate for their private interests and litigate when they perceive risk from other ocean users' activities; and intergovernmental disputes can drag out when federal, state, and tribal government priorities diverge. For example, the federal fisheries management agency—the National Marine Fisheries Service (NMFS)—is legally empowered to promote and regulate fishing, even as its sister agency, the National Ocean Service, has the legal authority to exclude fishing from specific habitat areas of high ecological value, pitting the two bureaus against each other in a fight for authority in the establishment of marine protected areas. Another example is that existing federal law on seafood safety divides authority across multiple segments of the seafood supply chain, with the NMFS; the Customs and Border Protection agency; the Immigration, Customs, and Enforcement agency; the U.S. Coast Guard; and the Food and Drug Administration all playing a role. Consequently, advancing basic reforms to improve supply chain transparency requires complicated interagency negotiations.

**FIGURE 1**  
**Boundaries of U.S. ocean jurisdiction**

U.S. ocean governance is divided into numerous zones for purposes of carrying out state, federal, and international law.



At a more fundamental level, there is an American tradition of establishing permitting frameworks and carrying out governance that is oriented toward permitting development and extraction of natural resources. However, this tendency to focus on resource acquisition has been somewhat tempered by approximately 40 years of hard lessons learned through accidents and mistakes that, in turn, caused human and environmental tragedies—including massive oil spills, the collapse of fisheries, hypoxic dead zones, or the near extinction of certain species. These ecological and economic crises have provoked the organization and mobilization of civil society groups as political forces and have driven change in both legislation and regulations at the state and federal levels.

Another core characteristic of U.S. ocean governance is its basis in scientific research and monitoring. Scientific data and peer-reviewed scientific analysis serve as the essential ingredients of this system, linking public policy to facts about the ocean's physical and ecological characteristics, resources, and limits. Since at least 1973, federal lawmakers have repeatedly passed environmental laws that order regulatory agencies to rely upon the "the best scientific and commercial data available" for natural resource management policy decisions.<sup>1</sup>

This regulatory mandate is definitively linked to many recent ocean governance successes, including the rebuilding of collapsed fisheries; the restoration of coastal and marine habitats; the purification of previously polluted and impaired ocean waterways and beaches; and the recovery of wildlife species previously threatened with extinction.

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## 1. Federal governance

As established in the U.S. Constitution, the U.S. government consists of three distinct branches: executive, legislative, and judicial. Ocean governance in the United States is primarily conducted by the executive branch, which enforces and carries out federal laws written and passed by the legislative branch—better known as the United States Congress. Congress, in turn, is made up of two houses: the House of Representatives and the Senate. The judicial branch comprises the U.S. federal court system; its politically insulated judges interpret the law, determine the constitutionality of the law, and apply it to individual cases.

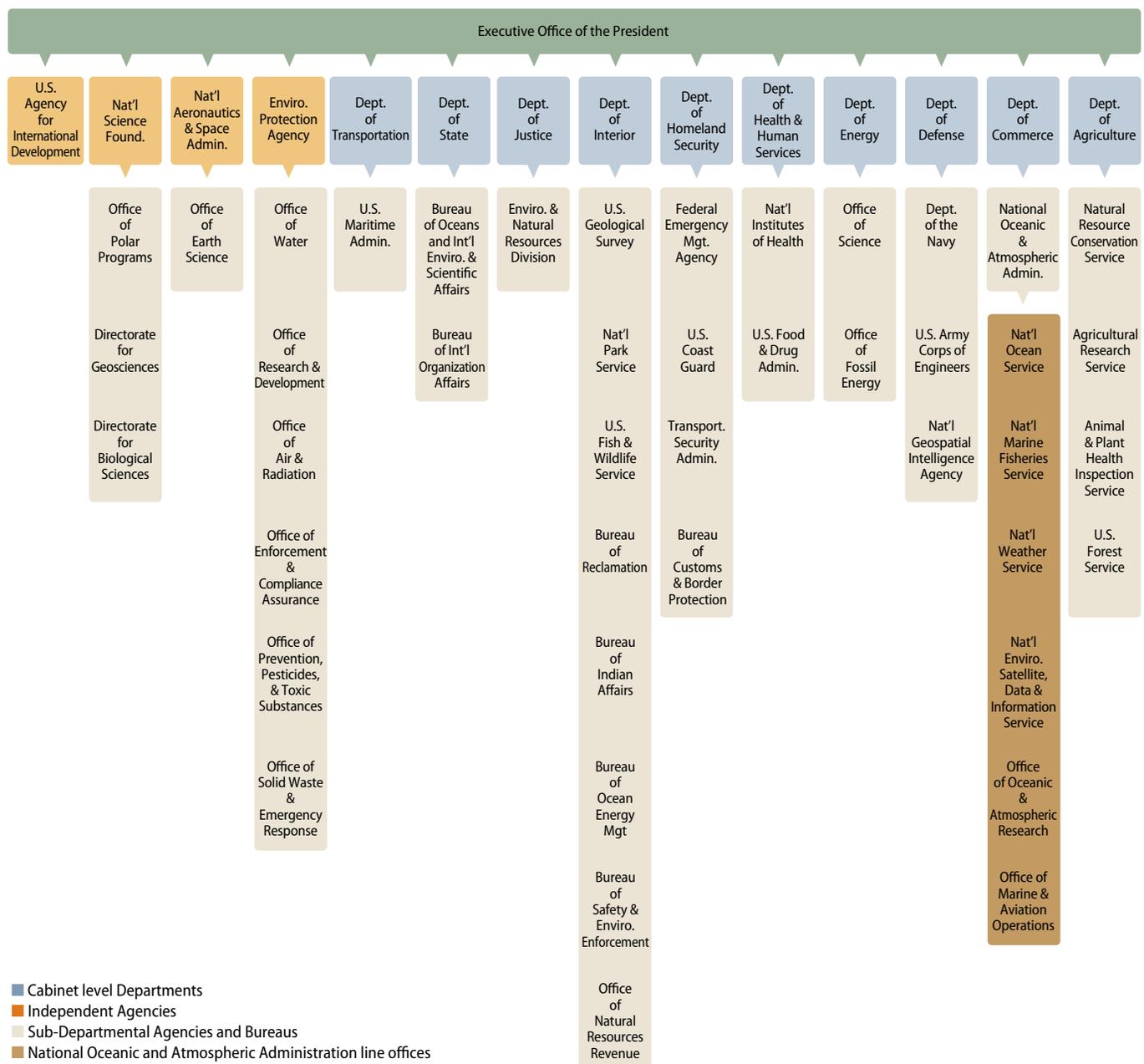
### A. The executive branch

The executive branch carries out and enforces laws passed by Congress, exercises authorities granted under the U.S. constitution, and conducts foreign policy. It includes the executive offices of the president and the vice president as well as the Cabinet—comprised of secretaries who lead each of 15 executive departments—and numerous other independent agencies and commissions. The president nominates individuals for key leadership roles in each of these departments, agencies, and bureaus, and each of these nominees must be approved by a majority vote in the Senate.

The Executive Office of the President includes a few key offices that play an important role in shaping ocean, science, and environmental policy and that are responsible for conveying the president's leadership priorities within the departments, agencies, and bureaus. Most notable among these are the White House Council on Environmental Quality (CEQ) and the Office of Science and Technology Policy (OSTP). These are small offices with close, direct ties to the president and his or her advisers in the White House; and their leaders, like heads of agencies and departments, are subject to Senate confirmation votes. The Executive Office of the President also includes the Office of Management and Budget, a body responsible for developing budget recommendations to Congress and for reviewing and approving regulations developed by the departments, agencies, and bureaus.

The executive branch consists of 15 Cabinet-level departments, under which sit numerous sub-Cabinet-level agencies. It also includes numerous independent agencies that do not reside within a specific departmental structure, including the National Aeronautics and Space Administration (NASA) and the Environmental Protection Agency (EPA). There is no single specific department of oceans within the U.S. government, and, as a result, responsibility for managing ocean and coastal issues and enforcing ocean law and policy is spread widely across the executive branch. (see figure 2)

**FIGURE 2**  
**U.S. federal ocean governance**  
 Departments and agencies with jurisdiction over marine resources and activities



Key independent and sub-Cabinet-level agencies are identified below.

*National Oceanic and Atmospheric Administration (Department of Commerce)*

The National Oceanic and Atmospheric Administration (NOAA) is the foremost ocean agency within the executive branch. It has primary responsibility for managing living marine resources and their habitats; enforcing law related to marine fisheries and wildlife; conducting baseline oceanic and atmospheric research, including via satellite monitoring; and observing and forecasting changes in weather, climate, and oceanography. In recent years, it has received an annual budget of approximately \$5.8 billion.<sup>2</sup> The most recent NOAA Administrator, under former President Barack Obama, was Kathryn D. Sullivan. Her term expired on January 20, 2017, and President Donald Trump’s nominee has not yet been confirmed by the U.S. Senate. NOAA’s responsibilities are further divided among the following six specialized bureaus, known as line offices or services:

- **The National Marine Fisheries Service (NMFS)** has primary responsibility for science-based stewardship of the living marine resources of the United States as well as for the habitats and ecosystems that sustain them. In partnership with eight Regional Fishery Management Councils, the NMFS manages marine fisheries, conducts scientific fish stock assessments, and ensures compliance with fisheries regulations. The council system—described further in the section outlining the Magnuson-Stevens Fishery Conservation and Management Act—empowers local marine resource stakeholders to participate directly in setting fisheries policy.

The NMFS also promulgates regulations to manage protected species, including marine mammals—which enjoy a specific set of protections under the Marine Mammal Protection Act<sup>3</sup>—and other marine species threatened with extinction under the Endangered Species Act.<sup>4</sup> Because marine science underpins the NMFS’s policy, the agency maintains six major regional scientific research centers and more than 20 laboratories around the United States and its territories.

Additional offices within the NMFS include those dedicated to aquaculture, habitat conservation, science and technology, international affairs, law enforcement, and seafood inspection.

- **The National Ocean Service** provides management and science to support three main missions: one, charting and navigational safety for marine vessel traffic; two, federal coastal zone management, which involves coastal hazard planning and mitigation, such as climate resilience and sea level rise planning; and three, stewardship of marine protected areas, including national marine sanctuaries, marine national monuments, and other place-based conservation and preservation-oriented activities.
- **The National Weather Service** is the nation’s primary source of weather, water, and climate data, forecasts, and warnings for the protection of life and property and the enhancement of the national economy. The National Weather Service maintains six regional headquarters, 122 weather forecast offices, and 4000 employees nationwide.<sup>5</sup>

- **The National Environmental Satellite, Data, and Information Service** operates NOAA’s fleet of satellites and other ground-based observation assets in order to gather, process, and deliver global environmental data and information to other NOAA line offices and other agencies of the federal government. It operates polar-orbiting and geostationary satellites as well as ground- and marine-based stations to track weather, climate, oceanography, land use, drought conditions, snowpack, and other parameters. The service also houses the National Centers for Environmental Information, which archives earth observation data collected by NOAA, the U.S. Navy, the U.S. Air Force, the Federal Aviation Administration, and other meteorological agencies around the world.
- **The Office of Oceanic and Atmospheric Research** provides baseline scientific research that supports the activities of the other mission-specific line offices.
- **The Office of Marine and Aviation Operations** manages the fleet of ships and aircraft that facilitates NOAA’s missions across the other five line offices. It is also home to the NOAA Commissioned Officer Corps, which is one of seven federal uniformed services of the United States and includes the men and women who operate the agency’s vessels and aircraft.

*U.S. Coast Guard (Department of Homeland Security)*

The U.S. Coast Guard (USCG) is a branch of the U.S. Armed Forces. The Coast Guard is a multi-mission service unique among the U.S. military branches for having a maritime law enforcement mission, with jurisdiction in both domestic and international waters. Among military services, it is also unique in that it has a federal regulatory agency mission as part of its mission set. It operates under the U.S. Department of Homeland Security during peacetime and can be transferred by the president to the U.S. Department of the Navy at any time—or by Congress during times of war. Its annual budget is approximately \$11 billion.<sup>6</sup>

The USCG carries out 11 specific missions, which are divided among homeland security and non-homeland security categories as follows:

**Non-homeland security missions:**

- Ice breaking and other ice operations
- Fisheries law enforcement
- Marine environmental protection
- Marine safety
- Maintaining aids to navigation
- Search and rescue

**Homeland security missions:**

- Defense readiness
- Maritime law enforcement
- Migrant interdiction
- Ports, waterways, and coastal security
- Drug interdiction

The USCG operates on the water worldwide; it also participates in international forums to build cooperation with the maritime law enforcement agencies of other nations. For example, the USCG is a member of two multilateral regional organizations that facilitate international cooperation in order to enforce both national and international ocean and maritime laws: the North Pacific Coast Guard Agencies Forum and the North Atlantic Coast Guard Forum.

The North Pacific Coast Guard Agencies Forum was founded in 2000 and comprises leadership from the coast guards of Russia, South Korea, Japan, China, Canada, and the United States. It fosters information sharing, understanding, and cooperation across a range of coast guard missions. In 2005, the parties initiated and coordinated efforts to counter illegal, unregulated, and unreported (IUU) activities in the North Pacific—for example, in the interdiction of illegal drift net fishing operations—and they have continued them annually since then.<sup>7</sup>

The North Atlantic Coast Guard Forum was established in 2007, modeled on the North Pacific Forum. Its membership includes 17 European countries as well as the United States, Canada, and Russia.<sup>8</sup>

The USCG has also established formal agreements with other national coast guards, including Canada and China, in which officers of one nation serve aboard vessels of the other nation.<sup>9</sup> For example, Royal Canadian Mounted Police serve aboard USCG vessels in the Great Lakes, and Chinese officers serve aboard USCG vessels in the Pacific Ocean. This allows USCG vessels to operate and conduct interdiction activities such as counter-trafficking and counter-IUU in international waters and against vessels with international registrations.

#### *U.S. Navy and U.S. Army Corps of Engineers (Department of Defense)*

The primary mission of the U.S. Navy is to maintain, train, and equip combat-ready naval forces capable of deterring aggression and maintaining freedom of the seas. In order to remain in an optimal operating capacity at all times, it also conducts its own oceanographic and meteorological research; when possible, it shares this data with civilian agencies such as NOAA. The Navy's annual budget is approximately \$160 billion.<sup>10</sup>

The U.S. Army Corps of Engineers is a federal agency under the Department of Defense, as well as a major Army command. It has significant jurisdiction over the permitting, construction, and maintenance of coastal infrastructure, flood control infrastructure, ports, and coastal ecosystem restoration as well as the dredging of ports, harbors, turning basins, and intracoastal waterways.

#### *Department of the Interior*

The Department of the Interior protects and manages the natural resources and cultural heritage of the United States; provides scientific and other information about those resources; and honors national trust responsibilities and special commitments to Native American tribes, Alaska Natives, and native islander communities. Its annual budget is approximately \$19 billion.<sup>11</sup>

The following four agencies within the Department of the Interior have jurisdiction over specific marine natural resources.

- **The Bureau of Ocean Energy Management (BOEM)** is the lead agency in managing the development of energy resources in the U.S. exclusive economic zone. For the purposes of offshore energy and mineral development, this area is known as the Outer Continental Shelf (OCS). Traditionally, oil and gas drilling and production are the predominant activities overseen by the BOEM, but the agency also oversees offshore sand mining and offshore wind energy development.
- **The Bureau of Safety and Environmental Enforcement** oversees offshore energy and mineral development activities—primarily oil and gas drilling—in order to ensure that developers comply with all relevant regulations related to operational safety and environmental stewardship.
- **The National Park Service (NPS)** preserves and manages the National Park System for the benefit and enjoyment of present and future generations.<sup>12</sup> Among hundreds of national park units, the system includes dozens of coastal and offshore protected areas. The NPS also includes law enforcement personnel, who ensure the protection of the lands, waters, and cultural assets within the parks under their jurisdiction.
- **The U.S. Fish and Wildlife Service** manages and enforces laws to conserve, protect, and enhance freshwater fish, wildlife, and plants, as well as their habitats, for the continuing benefit of the American people. This includes conservation and restoration of species protected under federal laws as well as management of the U.S. National Wildlife Refuge System. NOAA's National Marine Fisheries Service maintains primary jurisdiction over most oceanic fish and wildlife—including anadromous fish such as salmon, which spend portions of their lives in freshwater—while the Fish and Wildlife Service manages select marine species, which include walrus, polar bears, sea otters, and sea birds.

#### *Department of State*

Within the executive branch, the State Department conducts foreign policy for the U.S. government. This includes analyzing international issues; advising the president; negotiating treaties and agreements with foreign entities; and representing the United States at the United Nations.

The United States is a party to numerous regional and international treaties on marine resources that, among other things, aim to protect highly migratory species, such as tuna; conserve protected species like dolphins, whales, and sea turtles; and counter IUU fishing.<sup>13</sup> Participation in these agreements is maintained both by the NMFS and the Department of State, often in close consultation with the U.S. Coast Guard. Although the United States has not yet ratified the UN Convention on the Law of the Sea, it abides by the principles of the convention as customary international law.

As an Arctic nation with sovereign maritime territory in the Arctic Ocean north of Alaska, the United States is a member of the Arctic Council and most recently held the chair of the regional body until its chairmanship term ended in April 2017.

#### *Environmental Protection Agency (independent)*

The mission of the Environmental Protection Agency (EPA) is to safeguard human health and the environment. It fulfills this mission through six core activities: developing and enforcing regulations on pollution, providing grants, conducting scientific research on environmental issues, sponsoring partnerships, and conducting public education.

EPA areas of ocean governance cover four main activities: one, enforcing laws that prohibit ocean dumping and other direct discharge of pollution, such as solid waste or oil spills; two, managing the health of the coastal ecosystems, such as estuaries and wetlands, through management of pollution from stormwater runoff and other sources; three, monitoring coastal water quality; and four, promoting coastal resilience and adaptation to climate change, including ocean acidification.<sup>14</sup>

#### *National Ocean Policy and National Ocean Council*

In 2010, President Obama signed an executive order establishing America's first National Ocean Policy.<sup>15</sup> The policy established a National Ocean Council comprised of federal agencies, allowing them a forum in which to convene regularly and discuss how their responsibilities and mandates could interact more efficiently. It also specified nine priorities aimed at streamlining management of America's oceans and coasts through the use of a system that recognized and prioritized different activities in different regions of the country; for example, offshore oil exploration is commonplace in the Gulf of Mexico but nonexistent and politically unpopular in other regions of the country, like the Pacific coast and the northeast states.<sup>16</sup> Among the executive order's priorities was promotion of the optional use of coastal and marine spatial planning on a regional scale. To date, regional ocean plans have been finalized in two geographic regions—the northeast and the mid-Atlantic<sup>17</sup>—while federal, state, and tribal government officials along the West Coast have established a regional planning body that is working toward similar integrated planning for the Pacific coast of the lower 48 states.<sup>18</sup>

## **B. Legislative branch**

The legislative branch of government consists of the House of Representatives and the Senate, which together form the United States Congress. The Constitution grants Congress the sole authority to enact legislation. The Senate also has the responsibility to confirm or reject many Presidential appointments, and Congress has substantial investigative powers. Under its lawmaking power, Congress is granted the “power of the purse,” meaning it controls the allocation of federal funds gathered from taxpayers, royalties from public resources, and other sources. The House and Senate committees on appropriations write legislation that sets the amounts of funding disbursed to the government agencies and departments outlined above, typically on an annual basis.

The U.S. House of Representatives is made up of 435 elected members, divided among the 50 states in proportion to their total population. In addition, there are six nonvoting members, who represent the District of Columbia, the Commonwealth of Puerto Rico, and four other island territories of the United States. Representatives—also known as members of Congress—must stand for election every two years.

The U.S. Senate is composed of 100 Senators, with two representing each of the 50 states. Senators are elected to six-year terms, and these terms are staggered so that one-third of the Senate is up for re-election every two years.

Congress has passed numerous laws relating to the management of coastal and ocean resources and uses. Often, these laws grant specific authority to departments and agencies of the executive branch in order to support core areas of ocean governance. A list of major ocean laws follows but is by no means comprehensive.

#### *Living marine resources: fisheries and wildlife*

- **The Magnuson-Stevens Fishery Conservation and Management Act (MSA)** governs marine fisheries management in U.S. federal waters through eight Regional Fishery Management Councils.<sup>19</sup> Each council is required to develop and recommend science-based fishery management plans to the NMFS, which, in turn, must either approve or reject the Council's plan. According to the law, fishery management plans must be approved for every species that is commercially harvested within that council's jurisdiction and are required to include an annual catch limit based on the best scientific information available as well as accountability measures dictating what actions must be taken should the annual catch limit be exceeded.<sup>20</sup> Catch limits must be set at levels that prevent overfishing from occurring or, for overfished stocks, at levels that allows the stock to rebuild to sustainable levels within 10 years—except in certain special circumstances. Despite significant progress from science-based reforms in 2006, a few prominent wild fish stocks have still not recovered.<sup>21</sup>

The MSA also includes provisions that address IUU fishing activity in international waters; furthermore, it dictates specific terms of U.S. participation in regional fishery management organizations and other international fisheries agreements.

Fisheries that are primarily carried out in the waters of multiple neighboring states are managed not by the Fishery Management Councils but by interstate fishery management commissions. For example, the Atlantic States Marine Fisheries Commission, which consists of representatives from all Atlantic coastal states, manages fisheries for American lobster, striped bass, and menhaden, among others.

Current federal law does not include dedicated policy for marine aquaculture. This has resulted in significant regulatory uncertainty and little interest from the private sector to pursue aquaculture in federal waters.

- **The Endangered Species Act** protects threatened species and the ecosystems on which they depend in order to avoid extinction.<sup>22</sup> It also allows the United States to implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).
- **The Marine Mammal Protection Act** was created in response to scientists’ concerns that marine mammal populations—such as whales, seals, and manatees—were declining due to human activity. The law prohibits hunting, harassing, capturing, and killing of marine mammals in U.S. waters or by U.S. citizens on the high seas.<sup>23</sup>

*Federal environmental accountability and transparency (not ocean-specific)*

- **The National Environmental Policy Act** requires federal agencies to assess the environmental effects of proposed actions—such as the construction of highways or other publicly owned facilities—prior to making decisions.<sup>24</sup> This law also allows the public to weigh in on these decisions through public comment and review.
- **The Administrative Procedure Act** requires agencies to generally provide notice of their plans and seek public comment before they issue a new regulation or retract an existing regulation.<sup>25</sup> This process ensures that stakeholders and the public have an opportunity to express their concerns and suggestions before a rule is finalized or enacted. Before adopting a final rule, agency heads have a legal duty to consider all the views expressed; they are subject to litigation if valid comments are ignored.

*Coastal lands management*

- **The Coastal Zone Management Act** provides for the management of the nation’s coastal resources, including the Great Lakes.<sup>26</sup> The goal of the act is to “preserve, protect, develop, and where possible, to restore or enhance the resources of the nation’s coastal zone” and to balance competing land and water issues. The law recognizes that coastal priorities vary from state to state. To account for these differences, it allows states to establish individual coastal zone management programs that, once certified by the federal government, are eligible to receive funding to address each state’s individual coastal priorities.
- **The National Flood Insurance Act and Flood Disaster Protection Act** provide federally backed insurance for flood-prone home owners and require such insurance for homes in federally identified high-risk areas.<sup>27</sup> A related law—the Coastal Barrier Resources Act—restricts federal assistance or expenditures, such as flood insurance programs and government loans, within designated coastal barrier areas in order to preserve the natural resources of the barrier islands and discourage development in high-risk areas.<sup>28</sup>

### *Pollution control and prevention*

- **The Clean Water Act** regulates pollutant discharges into U.S. waters and provides the EPA with the authority to implement pollution control programs such as wastewater standards for industry.<sup>29</sup> Similarly, the Clean Air Act regulates air emissions from stationary and mobile sources to protect public health and regulate emissions of hazardous pollutants that cause harmful environmental impacts such as ocean acidification.<sup>30</sup> The Marine Protection, Research, and Sanctuaries Act of 1972—also known as the Ocean Dumping Act—prohibits disposal of materials such as trash or chemical waste into the ocean without an approved permit.<sup>31</sup>

Nonpoint source pollution, including nutrient-rich runoff from farms and livestock production operations, is not regulated under the Clean Water Act and is therefore poorly controlled. Agricultural runoff is responsible for large dead zones in ocean areas adjacent to major river outfalls and represents a key challenge for U.S. ocean health. Carbon dioxide emissions are not likely to be regulated in the short term by the Trump administration, despite the fact that the Supreme Court validated the legality of such regulations under the Clean Air Act.<sup>32</sup>

### *Offshore energy*

Currently, the majority of offshore oil and gas development in U.S. waters occurs in the western Gulf of Mexico off the coasts of Mississippi, Alabama, Louisiana, and Texas.<sup>33</sup> A small number of functional oil rigs remain in the waters off Southern California, and there is some offshore production in state-controlled Pacific Ocean waters of Alaska.<sup>34</sup>

- Specific laws governing oil and gas activity in U.S. waters include the **Outer Continental Shelf Lands Act**, which defines the OCS as all submerged lands lying seaward of the state coastal waters that are under U.S. jurisdiction.<sup>35</sup> In most cases, this extends to a 200 nautical mile limit of the U.S. exclusive economic zone; in areas where the United States claims an extended continental shelf, it extends further from shore. The OCS Lands Act orders the Interior Department to facilitate and organize the orderly development of energy resources from the OCS.<sup>36</sup>
- **The Submerged Lands Act** recognizes state control of nearshore waters and subsea resources—typically out to three nautical miles from the baseline, though, for Louisiana and Texas, this is extended out to nine nautical miles due to territorial agreements that predate modern boundaries.<sup>37</sup> This law gives state governments primary jurisdiction over permitting, regulating, and extracting royalty payments for energy development within state waters.
- **The Oil Pollution Act** amended the Clean Water Act in order to strengthen the EPA's ability to prevent and respond to catastrophic oil spills.<sup>38</sup> It requires oil storage facilities and vessels to submit a plan outlining how they will respond to large discharges. More specifically, the law enforces removal of spilled oil; assigns liability for the cost of cleanup and damage to the responsible party; requires specific operating procedures;

defines responsible parties and financial liability; implements processes for measuring damages; specifies damages for which violators are liable; and establishes a fund for damages, cleanup, and removal costs.

### *Marine protected areas*

The U.S. National Park System has been called “America’s best idea,” but it was not until very recently that the United States began setting aside areas of the ocean for permanent protection as well.<sup>39</sup> There are two main laws that have provided the framework for the establishment of marine protected areas in federal waters.

- **The Antiquities Act**, passed in 1906, gives the president broad executive authority to designate special natural, historic, and cultural areas as national monuments.<sup>40</sup> For the first century of its existence, the act was used exclusively to protect notable areas on land, such as the Grand Canyon, the Statue of Liberty, and Acadia National Park in Maine. Presidents George W. Bush and Barack Obama have used this authority in recent years to establish some of the largest fully protected marine reserves on the planet, including Papahānaumokuākea Marine National Monument in the northwestern Hawaiian Islands and the Pacific Remote Islands Marine National Monument. Other recent examples include the Rose Atoll Marine National Monument in the West Pacific and the Northeast Canyons and Seamounts Marine National Monument in the Atlantic Ocean.<sup>41</sup>
- **The Marine Protection, Research, and Sanctuaries Act** created the National Marine Sanctuary System, which provides a mechanism to create and manage national marine sanctuaries in U.S. waters.<sup>42</sup> The National Marine Sanctuary network currently includes 13 different sites, each of which has differing layers of protection based on the needs of user groups in the area. Sanctuaries are required by law to have robust input from local stakeholders in developing and updating their management plans, which are typically more permissive of extractive activities than the management plans of marine national monument areas. For example, many sanctuaries allow commercial fishing to occur within their boundaries, albeit with greater restrictions than in other areas. And some sanctuaries—like the Hawaiian Islands Humpback Whale National Marine Sanctuary or the Monitor National Marine Sanctuary—are strongly focused on the protection and management of a single species or prominent cultural resource.

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## 2. State governance

Coastal and subsea lands under a state’s maritime territory—which, in most cases, extends out to three nautical miles from shore—are generally held and managed by the state government in trust for the benefit of its citizens under the public trust doctrine.

Public interests have traditionally included navigation, fishing, and commerce; contemporarily, they include recreation, environmental protection, research, and preservation of scenic and historical values. However, federal law affords states significant leeway with respect to the management of the marine resources under their jurisdiction, and consequently, coastal states vary widely in their approaches and priorities for ocean policy.

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### 3. Native American tribes

The U.S. government recognizes 567 Native American tribes.<sup>43</sup> These tribal entities have an officially recognized government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation. Each is eligible for funding and services via the Bureau of Indian Affairs, which is part of the Department of the Interior.

Historically and legally, Native American tribes are considered sovereign governments, which is the basis for their federal status. The political relationship between the federal government and Indian nations is enshrined in the U.S. Constitution and is distinct from the relationship between the federal government and states and foreign nations. Unless tribal sovereignty or jurisdiction has explicitly been modified by Congress, tribes are free to regulate conduct in their jurisdictions. States have no authority over tribal affairs unless authorized explicitly by Congress.

Accordingly, tribes are a unique and important component of U.S. ocean policy and must be formally consulted and included in permitting, decision-making, planning, and other regulatory activities that impact ocean areas with a nexus to marine resources within tribal jurisdiction.

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### 4. Other essential ocean stakeholders

#### Civil society and nongovernmental organizations

Nongovernmental organizations that represent specific interests, trades, and constituencies participate actively in state, regional, and federal ocean governance. This includes participation in legal processes, such as permitting and rule-making established under the National Environmental Policy Act and the Administrative Procedures Act. It also includes participation by stakeholder group representatives on formal advisory councils and committees that many ocean agencies establish in order to help guide ocean policy. For example, in addition to representatives from recreational and commercial fisheries, each fishery management council often includes members representing the environmental and academic communities as well as other federal and state governmental agency stakeholders.<sup>44</sup>

Interests that are commonly represented by nongovernmental organizations include protection of wildlife and the environment; specific industrial and trade interests, such as shipping, offshore energy, and commercial fishing; universities and scientific research institutions; and, at times, religious and faith-based organizations.

### Business and industry

Among private sector interests, oil and gas, commercial shipping, and commercial fishing long were the primary industrial stakeholders in ocean governance. However, major new offshore uses—which include offshore wind and aquaculture—and the rising political power of the recreation and tourism industry herald new complexity, and ocean governance challenges to coordinate these uses and to achieve essential environmental goals.

## Endnotes

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