

**TESTIMONY OF STEPHANIE MADSEN
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ON BEHALF OF THE UNITED FISHERMEN OF ALASKA**

**HEARING ON THE OBAMA ADMINISTRATION'S NATIONAL OCEAN POLICY
BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE'S
SUBCOMMITTEE ON FISHERIES, WILDLIFE, OCEANS AND INSULAR AFFAIRS
ANCHORAGE, ALASKA
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Thank you, Mr. Chairman, and Members of the Subcommittee for taking the time to travel to Alaska to hear our State's concerns about the Administration's National Ocean Policy (NOP).

I am Stephanie Madsen, the executive director of the At-sea Processors Association (APA), a trade association representing fishing companies that participate in federally managed groundfish fisheries in waters off Alaska. Today, I am testifying on behalf of the United Fishermen of Alaska (UFA), an umbrella organization composed of 37 Alaska commercial fishing organizations whose members account for more than half the seafood landed annually in the United States.

Alaska's commercial fishing industry has participated at every step of the public process as the Administration has rolled out its NOP, which includes the ocean zoning concept of Coastal and Marine Spatial Planning (CMSP). To date, virtually none of concerns that we have articulated have been addressed. The Administration appears intent on pursuing a pre-determined course of action without regard for the views of the public, and just as troubling, represents a course of action that lacks legislative authority and expends federal funds intended for other purposes.

My testimony will focus on three key areas of the NOP initiative: 1) the threat to NOAA Fisheries' core science programs from the diversion of funds to an unauthorized NOP/CMSP initiative; 2) the usurpation of the role of expert fishery managers to manage fishery resources by a new federal bureaucracy comprised of individuals without relevant expertise, and 3) the possible proliferation of unnecessary and unwise regulations under the NOP/CMSP process and the resulting threat posed to Alaska's largest private sector employer—the commercial fishing industry.

Budgetary and Fiscal Impacts of the NOP/CMSP Initiative

Alaska's commercial fishing industry appreciates the efforts of Chairman Hastings, Subcommittee Chairman Fleming, Mr. Young, and other Members of the Natural Resources Committee, in continuing to press the Administration to disclose how much money is being spent by various federal agencies on NOP implementation. The linchpin of successful fisheries management in Alaska is good science. We are already worried about possible impacts on

Congressionally-authorized federal fisheries science and management programs given the grim budget picture. The NOP initiative, which is diverting untold sums from NOAA and other agencies, further reduces the resources available for NOAA Fisheries' science and management programs. Using a precautionary approach to fisheries management, as scientific uncertainty from lack of research goes up, the allowable harvest level is reduced, which means fewer fishing and fish processing jobs and less income for those still working. We cannot afford to continue to divert funding from NOAA Fisheries' core science programs to support a grandiose NOP initiative.

From the issuance of the NOP Executive Order 13547 and the Final Recommendations of the Ocean Policy Task Force in July 2010 to the Draft National Ocean Policy Implementation Plan published in January 2012, the NOP initiative has consistently called for a costly new expansion of federal ocean-related programs. The draft NOP implementation plan issued in January, for example, proposes 53 federal government actions and nearly 300 milestones. And, of course, the NOP/CMSP program establishes a new federal bureaucracy by creating a National Ocean Council, a Governance Coordinating Committee, eight new Regional Planning Bodies each consisting of two dozen federal officials, and myriad other committees and consultative bodies.

Much of what is contained in the NOP initiative was contemplated in bills introduced in the 108th through the 111th Congresses. Congress repeatedly refused to enact this legislation. Now, without Congressional authorization or dedicated appropriations, the Administration states that NOP/CMSP funding will come from "repurposing" existing resources. We do not favor "repurposing" core NOAA Fisheries science and management programs to establish federally dominated Regional Planning Bodies that could supplant the stakeholder driven regional fishery management councils. It is a hollow argument advanced by the Administration that repurposing funds creates efficiencies when, at least for fisheries management, it creates confusing, overlapping jurisdictional lines and duplicates existing processes.

Until Congress acts to authorize NOP/CMSP activities and provides the necessary funding amounts, we urge Congress at a minimum to prohibit the expenditure of federal funds to establish Regional Planning Bodies or to develop any plans identified within the scope of E.O. 13547.

NOP/CMSP Seeks to Usurp the Role of Regional Fishery Management Councils

Since its inception, the NOP initiative has called for establishing eight Regional Planning Bodies (RPBs) to be composed primarily of federal officials with some provision for state or local government representatives, and tribal interests. The Administration opposes including members of the public on RPBs to avoid triggering transparency requirements under the Federal Advisory Committee Act (FACA). RPBs are tasked with developing "National Ocean Council-certified regional CMS Plans for the sustainable use and long-term protection of the ocean, our coasts, and the Great Lakes." Provisions of such plans are to be implemented by regulation. Moreover, all federal agencies are required under the NOP program to "endeavor,

to the maximum extent possible, to integrate their actions with those of other partners to a CMS Plan.” With regard to fisheries, the Commerce Department is obligated to “integrate” fishery management regulations so that they are consistent with elements of any federally developed CMS Plan.

Federal fisheries off Alaska are managed currently under the authority of the Magnuson-Stevens Act, or MSA. The North Pacific Fishery Management Council is one of eight regional councils established under the MSA, and it is charged with developing management measures for fisheries occurring from 3 to 200 miles off the coast of Alaska. The North Pacific Council is composed of 11 voting members, which includes one federal official, three state officials, and seven private citizens nominated by Governors and appointed by the Secretary of Commerce. All Council members are required by law to be knowledgeable of, and experienced in, the fisheries under Council jurisdiction. The Councils involve affected users directly in the decision making process. The federal fishery management process in Alaska has been an unqualified success. All federally managed fish stocks in the Alaska region are harvested at sustainable levels, and a comprehensive set of regulations is in place to minimize fishing impacts on the environment. The management process is noted for its transparency and for the opportunities afforded to all stakeholders to have their views given due consideration.

The commercial fishing industry has asked repeatedly in public comments and meetings with Administration officials for assurances that CMS Plans will not affect fishing activities. Those calls have gone unheeded. We are left to conclude from a plain reading of the documents giving force to the NOP that the Secretary of Commerce will be obligated to promulgate new rules, or amend existing rules, to ensure implementation of any provisions of CMS Plans that might relate to fishery closures, mitigation measures, or catch limits.

The Proliferation of New Regulations Under the NOP Threatens Commercial Fishing and Fish Processing Jobs—Alaska’s Largest Private Employment Sector

Regional plans developed by RPBs that are populated by dozens of federal officials and certified by the Cabinet-level National Ocean Council will be broad in scope and receive substantially less public input than management measures developed through the MSA regional fishery management council process. The various NOP/CMSP documents issued by the Administration contain contradictory statements that this program anticipates no new regulations and that all federal agencies are obligated to issue or amend regulations to be as consistent as possible with regional CMS Plans. Given that the NOP is given force through Presidential decree, we fully expect federal agencies to follow specific guidance to conform to provisions of regional plans.

Fisheries regulations are designed most often to address complex resource management problems. Almost all management rules have allocation impacts on fishery participants and even with the benefit of detailed analysis cannot always avoid unintended consequences. In short, even in a fisheries management system populated with highly qualified resource management scientists and managers with decades of experience and benefiting from

expert analysis and the knowledge derived from stakeholders' input at every meaningful stage of the regulatory process, it is still difficult to minimize economic harm and avoid unintended environmental consequences.

It is not difficult to envision a provision in a CMS Plan that calls for a sizable area closure to fishing, or network of closed areas. The purpose could be to create marine reserves or to set aside areas for another commercial activity. How informed will an RPB be—especially one composed primarily of federal agency officials without fisheries experience—about the effects of displacing fishing activity? Will there be an analysis of the economic consequences of losing access to valuable fishing grounds? Will there be a sophisticated analysis of the effects on habitat, bycatch, etc. if fishing activity is redirected? Given the projected scope of CMS Plans and the lack of fisheries experience of those voting on CMS Plan provisions, it is highly unlikely that conservation benefits will be realized but highly likely that jobs and income will be lost. Where is the public policy rationale for creating jurisdictional confusion where none exists, duplicating federal regulatory processes, and, most importantly, distancing stakeholders from federal decisions that affect their livelihoods?

On this topic, the Administration argues that the NOP does not confer new authority upon federal agencies but simply operates within existing statutory requirements. We agree. However, existing law, most notably for our purposes Section 304 of the MSA, confers authority upon the Secretary of Commerce to promulgate fishery management rules when the regional fishery management councils do not act. Under E.O. 13547, the Secretary is obligated to issue, or amend, regulations to the maximum extent possible to give effect to National Ocean Council-certified CMS Plans. In fact, many NOP advocates are environmental organizations that favor dismantling the regional fishery management council system. Their intent is for the NOP processes to override the regional fishery councils and hand over decision making to federal agencies.

Under a plain reading of the NOP, provisions of CMS Plans can affect fishing activities, and by Executive Order, the Secretary of Commerce is required to promulgate regulations to give effect to such provisions. If the Administration wants to convince the commercial fishing industry that it does not intend to supersede the regional fishery management councils' authority, it should explicitly exempt fishing-related provisions from CMS Plans.

That concludes my testimony, Mr. Chairman. Thank you, again, for the opportunity to testify. I am glad to answer any questions.