EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D.C.

June 28, 2018

MEMORANDUM FOR:

SECRETARY OF STATE
SECRETARY OF DEFENSE
ATTORNEY GENERAL
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE
SECRETARY OF COMMERCE
SECRETARY OF TRANSPORTATION
SECRETARY OF ENERGY
SECRETARY OF HOMELAND SECURITY
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
DIRECTOR, NATIONAL SCIENCE FOUNDATION
DIRECTOR OF NATIONAL INTELLIGENCE
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
COMMANDANT OF THE COAST GUARD

FROM:

Mary B. Neumayr
Chief of Staff
Council on Environmental Quality

Ted Wackler
Deputy Chief of Staff and Assistant Director
Office of Science and Technology Policy

SUBJECT:

Guidance for Implementing Executive Order 13840, Titled "Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States"

I. Purpose

This memorandum provides direction and guidance to each of the above referenced executive departments and agencies (agencies) for implementing E.O. 13840 (Ocean Policy to Advance the Economic, Security, and Environmental Interests of the United States) which was signed on June 19, 2018 (83 FR 29431 (June 22, 2018). E.O. 13840 revokes E.O. 13547 of July 19, 2010 (Stewardship of the Ocean, Our Coasts, and the Great Lakes). E.O. 13840 is intended to advance the economic, security and environmental interests of the United States through improved public access to marine data and information, efficient Federal agency coordination on ocean related matters, and engagement with marine industries, the science and technology community, and other ocean stakeholders, including Regional Ocean Partnerships (ROPs).

II. Goals

To further the national interests identified in Section 1 of E.O. 13840, Section 2 of E.O. directs agencies to:

a) Coordinate the activities of agencies regarding ocean-related matters to ensure effective management of ocean, coastal, and Great Lakes waters and provide economic, security, and environmental benefits for present and future generations of Americans;

b) Continue to promote the lawful use of the ocean by agencies, including United States Armed Forces;

c) Exercise rights and jurisdiction and perform duties in accordance with applicable law;

d) Facilitate the economic growth of coastal communities and promote ocean industries, which employ millions of Americans, advance ocean science and technology, feed the American people, transport American goods, expand recreational opportunities, and enhance America's energy security;

e) Ensure that Federal regulations and management decisions do not prevent productive and sustainable use of ocean, coastal, and Great Lakes waters;

f) Modernize the acquisition, distribution, and use of the best available ocean-related science and knowledge, in partnership with marine industries; the ocean science and technology community; State, tribal, and local governments; and other ocean stakeholders, to inform decisions and enhance entrepreneurial opportunity; and

g) Facilitate, as appropriate, coordination, consultation, and collaboration regarding ocean-related matters, consistent with applicable law, among Federal, State, tribal, and local governments, the public sector, marine industries, the ocean science and technology community, other ocean stakeholders, and foreign governments and international organizations.

III. Establishment of Ocean Policy Committee

Section 4 of E.O. 13840 establishes an interagency Ocean Policy Committee (OPC) and directs the interagency committee to create two subcommittees to focus on (1) ocean science and technology;[1] and (2) ocean resource management. The OPC will be co-chaired by the Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ), with participation by departments identified in the Executive Order. The Co-Chairs will convene an initial meeting of the OPC to review and discuss implementation of the Executive Order. Principals of the OPC will meet at least annually.

Under Section 5 of E.O. 13840, the Committee is directed to:

a) Provide advice on policies concerning ocean-related matters to the President and the heads of departments or agencies who are members of the OPC;
b) Engage and collaborate with stakeholders, including ROPs, under existing laws and regulations to address ocean-related matters that may require interagency or intergovernmental solutions;
c) Coordinate the timely public release by Federal agencies of ocean-related data and information;
d) Coordinate and inform the ocean policy-making process and identify priority ocean research and technology needs;
e) Support interagency and private sector research under the National Oceanographic Partnership Program; and
f) Obtain information and advice concerning ocean-related matters from State, tribal, and local governments and private sector entities and individuals.

IV. Revocation of E.O. 13547

Section 7 of E.O. 13840 revokes E.O. 13547, thereby eliminating the following entities:

- National Ocean Council;
- National Ocean Council Deputies Committee;
- National Ocean Council Senior Policy Contact Committee;
- Governance Coordinating Committee;
- Ocean Resource Management Interagency Policy Committee and sub-committees;
- Ocean Science and Technology Interagency Policy Committee and non-Congressionally mandated sub-committees specific to the National Ocean Council; and
- Regional Planning Bodies.

Pursuant to Section 7 of E.O. 13840, the following materials are no longer controlling policy for Federal agencies:

- National Ocean Policy Implementation Plan;
- National Ocean Policy Implementation Plan Technical Appendix;

[1] The function of this subcommittee shall be served by the standing National Science and Technology Council Subcommittee on Ocean Science and Technology (SOST).

- Marine Planning Handbook;
- Northeast Regional Ocean Plan; and
- Mid-Atlantic Regional Ocean Plan.

V. Immediate Actions for Agencies

Designate Points of Contact for the Ocean Policy Committee. To support the OPC, each agency is requested to submit in writing to OSTP and CEQ, no later than July 5th, 2018, an OPC lead member and one additional staff member to serve as points of contact, including their names, titles, and contact information. Agencies should identify as their lead member a senior official, including but not limited to a civilian official of the United States appointed by the President, a member of the Senior Executive Service or the Senior Intelligence Service, a general officer or flag officer, or an employee of the Vice President. Such designations should be emailed to Deerin_S_Babb-Brott2@ostp.eop.gov.

Review Agency Regulations, Guidance, and Policies. By September 17, 2018, agencies shall complete an internal review of existing regulations, guidance, and policies to ensure that agency policies are consistent with E.O. 13840. This review should include agencies' data-related programs and activities. Upon completing this review, the OPC lead member for each agency should meet with CEQ, OSTP, and the Office of Management and Budget to discuss potential actions, if any, needed to ensure consistency with the executive order. Please direct any questions regarding this review to Deerin_S_Babb-Brott2@ostp.eop.gov.

Engagement with Stakeholders and Regional Ocean Partnerships. E.O. 13840 supports Federal agency engagement with stakeholders, including ROPs, under existing laws and regulations to address ocean-related matters that may require interagency or intergovernmental solutions. As set forth in Section 2(g) and 5(b) of E.O. 13840, Federal agencies should continue to collaborate with ROPs where such engagement is consistent with Congressional mandates.

Under E.O. 13840, Federal agencies are no longer required to comply with plans certified by the National Ocean Council. ROPs representing the Northeast (Northeast Regional Ocean Council) and the Mid-Atlantic (Mid-Atlantic Regional Council on the Ocean), where such plans exist, may request that Federal agencies coordinate on implementing specific actions contained in those plans and support the data portals created in conjunction with those plans. Agencies may continue to support the data portals, and may continue to coordinate on implementing actions identified in the plans to the extent such actions are consistent with E.O. 13840 and advance and do not duplicate or conflict with relevant Congressional mandates.[2] Congress has authorized the

[2] Such mandates include, but are not limited to the Marine Mammal Protection Act, 16 U.S.C. §§ 1361 et seq.; Clean Water Act, 33 U.S.C. §§ 1251 et seq.; Endangered Species Act, 16 U.S.C. §§ 1531 et seq.; National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq.; Deepwater Ports Act, 33 U.S.C. §§ 1501 et seq.; Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331 et seq.; Rivers and Harbor Act, 33 U.S.C. § 408; National Historic Preservation Act, 54 U.S.C. §§ 300101 et seq.; Oil Pollution Act, 33 U.S.C. §§ 2701 et seq.; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq.; Migratory Bird Treaty Act, 16 U.S.C. §§ 703 et seq.; Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. §§ 1401 et seq.; National Marine Sanctuaries Act, 16 U.S.C. §§ 1431 et seq.; American Indian Religious Freedom Act, 42 U.S.C. § 1996; Coastal Zone Management Act, 16 U.S.C. §§ 1451 et seq.; Ports and Waterways Safety Act, 33 U.S.C. §§ 1221 et seq.

identification of areas based on ecological characteristics under various statutes,[3] and Federal agencies should not engage in the identification or delineation of important ecological areas or ecologically rich areas or other similar area designations pursuant to the certified plans referenced above.

VI. Initial Meeting of the Ocean Policy Committee

CEQ and OSTP will convene a meeting of the Ocean Policy Committee on **Wednesday, August 1, 2018** at the Eisenhower Executive Office Building, 1650 Pennsylvania Ave NW, Washington, DC 20502, exact time and location TBD. The invitation, meeting location and agenda will be sent to your agency's points of contact prior to the meeting.

[3] These statutes include but are not limited to the National Marine Sanctuaries Act, 16 U.S.C. §§ 1431 et seq.; Endangered Species Act, 16 U.S.C. §§ 1531 et seq.; and the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq.