



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office for Coastal Management

June 11, 2024

Dear Tribal Leader:

The National Oceanic and Atmospheric Administration (NOAA) is proposing guidance to be used when considering the designation of new regional ocean partnerships. This guidance follows Title CII of Public Law 117-263, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, codified at 16 U.S.C. § 1468 (NDAA). As part of this process, we are sharing a draft version of the guidance and inviting formal, government-to-government consultation with your tribal government, or any level of engagement you deem appropriate.

BACKGROUND

Regional ocean partnerships are regional organizations voluntarily convened by coastal states and Indian Tribes, and designated by NOAA, as delegated, per the NDAA, to coordinate the management of ocean, coastal, and Great Lakes resources among the members of the partnership.¹ Congress recently specified how new regional ocean partnerships must be organized and the elements that must be included in applications for new partnerships. The NDAA includes criteria for NOAA to apply when considering new regional ocean partnerships, and states that new partnerships must be designated by NOAA before the partnership may receive NOAA funding or otherwise be considered a regional ocean partnership.

There are four existing regional ocean partnerships: the Gulf of Mexico Alliance, the Northeast Regional Ocean Council, the Mid-Atlantic Regional Council on the Ocean, and the West Coast Ocean Alliance. Section 10102(b)(3) of the NDAA (16 U.S.C. § 1468(b)(3)) designates these four as regional ocean partnerships; as such, the application process for new partnerships does not apply to them.

REGIONAL OCEAN PARTNERSHIP DESIGNATION GUIDANCE

NOAA is seeking input regarding the contents of the regional ocean partnership designation guidance (attached). The following is included in the draft guidance:

1. Introduction and background
2. Instructions on submitting a new partnership application to NOAA
3. Requirements for new regional ocean partnerships. Applications to NOAA must:
 - a. Identify the members of the new partnership

¹ The NDAA uses the same definition of “Indian Tribe” as contained in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304): “any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”

- b. Identify the governing body of the new partnership
 - c. Identify the purposes and functions of the new partnership
4. Eligibility for funding as a partnership

GOVERNMENT-TO-GOVERNMENT CONSULTATION

NOAA recognizes its unique relationship with Tribal Nations and trust responsibility with tribal governments as set forth in the United States Constitution, treaties, statutes, executive orders, and court decisions. It is NOAA's policy to consult on a government-to-government basis with federally recognized tribal governments when the federal actions and decisions have substantial direct effects on an Indian Tribe or its relationship with NOAA. NOAA has determined that this action requires invitation to formal government-to-government consultation per Executive Order 13175.

If you are interested in formal consultation, please notify Betsy Nicholson at rop.ijja@noaa.gov, by July 26, 2024, to discuss consultation options. If this deadline is not possible, NOAA staff will work with your staff to find a date, time, and location (or virtual meeting) to accommodate tribal leadership.

ADDITIONAL OPPORTUNITIES FOR ENGAGEMENT

In addition to formal government-to-government consultation, you can request an informal, virtual meeting with NOAA to learn more about regional ocean partnerships. Please contact Betsy Nicholson at rop.ijja@noaa.gov, or by phone at (617) 894-0197, if you are interested in a virtual meeting.

CONCLUSION

Please let us know if any of these engagement opportunities would be of interest to you. Also, if a regional ocean partnership is proposed for designation, we will contact Tribal Nations in that region to ensure they are aware of it and will invite formal government-to-government consultation on the proposed designation. We look forward to continuing to work with you to achieve our shared goals of addressing ocean and coastal issues in your region. If you have questions, please contact Betsy Nicholson using the contact information provided in the paragraph above.

Sincerely,



Jeffrey L. Payne, Ph.D.
Director
NOAA Office for Coastal Management
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Attachment

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Draft Guidance on Designation of New Regional Ocean Partnerships

I. Introduction

Title CII of Public Law 117-263, the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (NDAA), codified at 16 U.S.C. § 1468, authorizes coastal states (including Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and American Samoa),¹ Indian Tribes,² and other entities to form new partnerships and to apply to the National Oceanic and Atmospheric Administration (NOAA), as delegated, for designation as a regional ocean partnership. NOAA is issuing this implementing guidance for the designation of new partnerships, per this directive.³

This guidance document does not bind the public, except as authorized by law or as incorporated in a contract. 15 CFR 29.2(a). This guidance document will also be posted on the NOAA guidance portal: [noaa.gov/guidance](https://www.noaa.gov/guidance)

Regional ocean partnerships are regional organizations voluntarily convened by coastal states and tribes, and designated by NOAA per the NDAA, to coordinate the management of ocean, coastal, and Great Lakes resources. These partnerships work in collaboration with other governments (including tribal, federal, and local) and stakeholders to address ocean and coastal issues of common concern in that region.

There are four existing regional ocean partnerships: the Gulf of Mexico Alliance, the Northeast Regional Ocean Council, the Mid-Atlantic Regional Council on the Ocean, and the West Coast Ocean Alliance. Section 10102(b)(3) of the NDAA (16 U.S.C. § 1468(b)(3)) designates these

¹ The term "coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa. Coastal Zone Management Act (CZMA) of 1972 Sec. 304 (16 U.S.C. 1453); NDAA Sec. 10202(a)(2) (incorporating the CZMA definition of "coastal state").

² "Indian tribe" or "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 STAT. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Indian Self-Determination and Education Assistance Act (ISDEAA) Sec. 4 (25 U.S.C. 5304); NDAA Sec. 10202(3) incorporating the ISDEAA definition of "Indian Tribe."

³ Effective April 29, 2024, the Secretary of Commerce delegated to the NOAA Administrator the Secretary's authorities related to Regional Ocean Partnerships under Section 10202(b)(2) of Division J of the NDAA.

four as regional ocean partnerships; as such, the application process for new partnerships does not apply to them.

The NDAA authorizes approximately \$10 million annually from fiscal years 2023 through 2027 for existing partnerships, as well as \$1 million annually from fiscal years 2023 through 2027 to eligible Indian Tribes for participation in or engagement with the partnerships. However, Congress has not appropriated NDAA funding for these purposes. Regional ocean partnership funding is available through fiscal year 2026 under Public Law 117-58, the Infrastructure Investment and Jobs Act (the Bipartisan Infrastructure Law), and that funding is discussed below.

II. Tribal Consultation

NOAA is consulting with tribal officials on this guidance and will consult on the proposed designation of new regional ocean partnerships according to *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*.

III. Environmental Review and Compliance

In making designation decisions, NOAA shall comply with all applicable federal environmental and cultural resource laws, statutes, and regulations. Entities applying for designation must agree to provide any information requested by NOAA that is needed to meet its environmental compliance obligations, and shall comply with all federal, state, and local environmental laws, statutes, and regulations when applying for regional ocean partnership designation. This may also include compliance with state and territory coastal management programs under the Coastal Zone Management Act.

IV. Submitting a Regional Ocean Partnership Application to NOAA

NOAA encourages entities that are considering forming new partnerships to communicate with NOAA early in the process. NOAA will work with interested entities and provide ongoing assistance, answer questions, provide connections to existing partnerships, and review early drafts of applications as entities develop their management structures. Once the application is ready for formal submission, it should be addressed to the NOAA Administrator. NOAA will review the application and provide a decision within 120 days of receipt. Approval establishes a designated regional ocean partnership. If the application is not approved, the applicants will receive feedback and be provided an opportunity to revise and resubmit the application.

Partnership applications must be sent via electronic mail to rop.iija@noaa.gov. An electronic copy is required; applicants may also choose to mail a hard copy to:

Joshua Lott
NOAA Office for Coastal Management
1305 East-West Highway
Silver Spring, Maryland 20910

V. Requirements for New Regional Ocean Partnerships

Entities wishing to apply to NOAA for designation as a new regional ocean partnership must submit an application with the following information:

Identify the members that will comprise the new partnership:

Consistent with the NDAA, a regional ocean partnership must include at least one coastal state, as defined in the NDAA, and at least one other eligible entity.⁴ Other eligible entities are other coastal or non-coastal state(s) that share a common ocean or coastal area with the coastal state, without regard to whether the coastal states are contiguous; state(s) that would contribute to the priorities of the partnership, and Indian Tribe(s), as defined in the NDAA. For example, a single state and eligible tribe(s) may form a partnership, or multiple states may form a partnership.

One purpose of the NDAA is to “incorporate rights of Indian Tribes in the management of oceans, coasts, and Great Lakes resources and provide resources to support Indian Tribe participation in and engagement with regional ocean partnerships.” Sec. 10201(b)(6). NOAA encourages all new partnerships to include tribal participation.

Identify the governing body of the new partnership:

As directed by section 10202(c) of the NDAA (16 U.S.C. § 1468(c)), the governing body must include, at a minimum, voting members from each coastal state participating in the partnership designated by the governor(s) of the coastal state(s), and may include such other members as the partnership considers appropriate. Voting members representing a tribal government must be designated by that tribal government. The partnership application must include letters from governors and tribal leaders identifying members of the governing body.

Identify the purposes and functions of the new partnership:

Section 10202 of the NDAA identifies required functions of the regional ocean partnership that NOAA will evaluate to determine if a new partnership should be designated. These functions include the following:

1. *The regional ocean partnership must be established to coordinate the management of ocean, coastal, and Great Lakes resources among the members of the partnership. (NDAA Sec. 10202(b)(2)(A), 16 U.S.C. § 1468(b)(2)(A)).*

⁴ Section 10202(b)(1) of the NDAA (16 U.S.C. § 1468(b)(1)) provides that “A coastal State or Indian Tribe may form a partnership with a coastal State that shares a common ocean or coastal area with the coastal State, without regard to whether the coastal States are contiguous; and States (i) that share a common ocean, coastal area, or watershed with the coastal State, without regard to whether the coastal States are contiguous, or (ii) that would contribute to the priorities of the partnerships; and Indian Tribes.” Separately, section 10202(c) (16 U.S.C. § 1468(c)) provides that a partnership must have a governing body that is “comprised, at a minimum, of voting members from each coastal state participating,” indicating that each partnership is expected to have at least one coastal state.

A description of how the proposed partnership would meet this requirement should be clearly stated in the application. Details on specific issues the partnership will address and methods the partners will use to coordinate will be spelled out in the following sections.

2. *The regional ocean partnership must maintain mechanisms for coordination, consultation, and engagement with the following (NDAA Sec. 10202(e), 16 U.S.C. § 1468(e)):*
 - i. *The federal government,*
 - ii. *Indian Tribes,*
 - iii. *Nongovernmental entities, including academic organizations, nonprofit organizations, and private sector entities, and*
 - iv. *Other federally mandated regional entities, including the regional fishery Management Councils, the regional associations of the National Integrated Coastal and Ocean Observation System, and relevant Marine Fisheries Commissions.*

The coordination, consultation, and engagement mechanisms can take several forms. These entities may be considered formal partners of the regional ocean partnership, as in the case of the West Coast Ocean Alliance, where over 40 state, tribal, and federal government partners are member governments. The Alliance works with other partner organizations with common interests and relevant ocean planning activities on the West Coast, including the Pacific Fishery Management Council.

Partnerships may hold regular meetings to coordinate with these entities; the four existing partnerships hold full in-person membership meetings annually, as well as meet on a more frequent virtual basis. Partnerships may also establish workgroups for specific groups of members, such as the West Coast Ocean Tribal Caucus. These coordination, consultation, and engagement mechanisms do not relieve federal agencies of any requirement to consult with Indian Tribes, as described under Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, or any other applicable law or policy.

3. *The regional ocean partnership must focus on the environmental issues affecting the ocean, coastal, and Great Lakes areas of the members participating in the partnership (NDAA Sec. 10202(b)(2)(B), 16 U.S.C. § 1468(b)(2)(B)).*

The application for the new partnership should identify the issues it will focus on. It must explain how and why those issues were chosen, e.g., through discussions and agreement among the participants. The issues should be clearly identified and explained. For example, the governors' agreement that established the Mid-Atlantic Regional Council on the Ocean in 2009 identified four regional priorities: climate change adaptation, renewable energy, marine habitats, and water quality.

4. *The regional ocean partnership must complement existing coastal and ocean management efforts of states and Indian Tribes on an interstate scale, focusing on shared regional priorities (NDAA Sec. 10202(b)(2)(C), 16 U.S.C. § 1468(b)(2)(C)).*

The partnership is intended to complement existing coastal and ocean management efforts that require or could be enhanced with a regional, intergovernmental focus. Thus, the application must explain how the partnership will meet these needs. For example, the four existing regional ocean partnerships employ regional data portals to provide information to decision-makers throughout the region.

Existing partnerships also have management or action plans with specific regional recommendations and actions. For example, the Gulf of Mexico Alliance has several priority areas (e.g., habitat resources, wildlife and fisheries, coastal community resilience, and others), each with its own team goals and project areas.

5. *The regional ocean partnership cannot have a regulatory function (NDAA Sec. 10202(b)(2)(D), 16 U.S.C. § 1468(b)(2)(D)).*

The application must state that the partnership does not have a regulatory function. Therefore, while the partnerships should play an important cooperation and collaborative role in coastal and ocean and Great Lakes management, the partnerships cannot be a decision-making body replacing state or tribal regulatory and management agencies.

6. *The regional ocean partnership cannot be duplicative of an existing partnership (NDAA Sec. 10202(b)(2)(E), 16 U.S.C. § 1468(b)(2)(E)).*

If states or tribes apply for designation of a new partnership, the new partnership cannot be duplicative of an existing partnership. Applicants for new partnerships should explain how the proposed partnership is not duplicative of an existing partnership, including an explanation of how the new proposed partnership would reduce duplication of efforts and maximize opportunities to leverage support in ocean and coastal regions (NDAA Sec. 10201(b)(4)).

VI. Eligibility for Funding as a Partnership

Under the Bipartisan Infrastructure Law, NOAA's Office for Coastal Management is administering two funding opportunities related to regional ocean partnerships in fiscal years 2022-2026. One provides funding for existing partnerships, and the other for tribal capacity to engage with regional ocean partnerships. Once any new partnerships are designated under the NDAA, they would be eligible to apply for this funding. Federally recognized tribes with current or ancestral interests in a region with a new partnership would be eligible to apply for the companion tribal competitive funding program.

The NDAA also authorizes funding for established partnerships until fiscal year 2027 (Sec. 10202(j) of the NDAA), though no funding has been appropriated. The NDAA also authorizes \$1 million per year for fiscal years 2023-2027 to be distributed to Indian Tribes for purposes of participation in or engagement with the partnerships. This funding also has not been appropriated by Congress.

VII. Privacy Act Statement

Authority: The collection of this information is authorized under 16 U.S.C. § 1468 which authorizes NOAA, as delegated, to determine the time and manner by which partnerships may apply for designation as regional ocean partnerships, 5 U.S.C. § 301, Departmental regulations which authorizes the operations of an executive agency, including the creation, custodianship, maintenance and distribution of records, and 15 U.S.C. 1512, Powers and duties of Department.

Purpose: NOAA is collecting information from parties interested in establishing new Regional Ocean Partnerships with NOAA. Interested individuals or entities will provide applications to NOAA for consideration.

Routine Uses: The information collected will be used to determine applicant eligibility for a Regional Ocean Partnership. Disclosure of this information is permitted under the Privacy Act of 1974 (5 U.S.C. Section 552a) to be shared among Department staff for work-related purposes. Disclosure of this information is also subject to all of the published routine uses as identified in the Privacy Act System of Records Notice [COMMERCE/DEPT-23](#), Information Collected Electronically in Connection with Department of Commerce Activities, Events, and Programs.

Disclosure: Furnishing this information is voluntary; however, failure to provide some or all of the requested information may remove the applicant from consideration for this opportunity.

VIII. Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0690-0038. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. All responses to this information collection are voluntary. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to Lauren Gibson at lauren.gibson@noaa.gov.