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The National Ocean Policy Study: A Model for the Future?

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Summary

The Oceans Act of 2000 (P.L. 106-256) created a Commission on Ocean Policy that is currently deliberating. In June 2003, the Commission is due to present to the 108th Congress a wide-ranging report and recommendations for congressional action. In creating the Commission, the Oceans Act set in motion a process that sought to replicate a process of the late 1960s, when the Commission on Marine Science, Engineering, and Resources produced the Stratton Commission Report (named for Commission Chairman Julius Stratton). The 1969 report, *Our Nation and the Sea: A Plan for National Action*, portrayed a broad vision of a comprehensive federal approach to ocean topics that garnered widespread public attention, and many subsequent marine policy initiatives can be traced back to this report.

Responding to heightened public and political interest in ocean affairs galvanized by the Stratton Commission Report and other events that transcended congressional organization, the U.S. Senate, on February 19, 1974, adopted S.Res. 222, entitled *Authorizing a National Ocean Policy Study* (NOPS). This measure authorized the Senate Committee on Commerce (now Commerce, Science, and Transportation) to undertake a full, complete, and comprehensive analysis of national ocean policy and federal ocean programs.

NOPS was active from 1974 through 1994. During this time, NOPS activities, either solely or jointly with other Senate or House committees or subcommittees, resulted in the release of 89 publications in the form of congressional hearings or committee prints. The topics ranged across such issues as: outer continental shelf oil and gas development and the coastal zone; Law of the Sea; tankers and the marine environment; Soviet ocean activities; coastal effects of offshore energy development; fishery conservation and management; world energy outlook; renewable ocean energy resources; polar resources and polar oceans research; coastal zone management; federal ocean programs; global environmental change research; marine mammal protection; environmental satellites; global warming; weather services and research; and seafood safety and quality assurance. Many of the topics that NOPS addressed likely would not have been addressed with the same breadth in the more traditional congressional structure.

This report discusses the pros and cons of reviving some form of NOPS to address the complex and varied oceans issues likely to come before the 108th Congress. The report provides historical background and is unlikely to be updated.

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The National Ocean Policy Study: A Model for the Future?

Recent events have raised the question of whether the National Ocean Policy Study (NOPS) approach of the 1970s and 1980s might be worthy of renewed consideration for addressing oceans issues that might arise in the 108th Congress. The Oceans Act of 2000 (P.L. 106-256) created a Commission on Ocean Policy that is to present a wide-ranging report and recommendations for congressional action to the 108th Congress in June 2003. This report reviews the NOPS activity and assesses the utility of a similar approach for Congress' handling of complex and varied recommendations on oceans policy anticipated in June 2003.

Background and History

The U.S. Senate on February 19, 1974, adopted S.Res. 222, entitled *Authorizing a National Ocean Policy Study*.¹ S.Res. 222 had been introduced on December 19, 1973, by Senator Warren G. Magnuson and cosponsored by 58 senators.² It authorized the Senate Committee on Commerce (now Commerce, Science, and Transportation) to undertake a full, complete, and comprehensive analysis of the elements of a national ocean policy and the adequacy of federal ocean programs. There was no sunset provision or specific time limit on NOPS.

The study by the Committee on Commerce was to be undertaken with representative *ex officio* membership from seven other standing committees of the Senate with a jurisdictional interest over the elements of the study. Those committees included the Committees on Appropriations; Interior and Insular Affairs (now Energy and Natural Resources); Public Works (now Environment and Public Works); Foreign Relations; Government Operations (now Governmental Affairs); Labor and Public Welfare (now Health, Education, Labor, and Pensions); and Armed Services. Participants in NOPS included all the members of the Committee on Commerce as well as the chair and ranking minority member (or their designees) from each of those seven other Senate committees. In addition, six senators were to be appointed as members of NOPS by the President Pro Tempore of the Senate from

¹ "National Ocean Policy Study." [Debate and Vote in the Senate] *Congressional Record*, v. 120, pt.3 (Feb. 19, 1974): 3472-3473.

² Magnuson, Warren G., *et al.* "Senate Resolution 222– Submission of a Resolution to Authorize a National Ocean Policy Study." Remarks in the Senate. *Congressional Record* [daily ed.] v. 119 (Dec. 19, 1973): S23315-S23328.

coastal and Great Lakes states without regard to their committee membership.³ Thus, the Commerce Committee was clearly the lead player in NOPS, providing a forum where cross-cutting oceans issues could be considered. Moreover, the leadership from these associated committees was very active in aspects of NOPS work over the years.

In conducting NOPS, the Committee on Commerce was mandated to report its findings, together with recommendations for such legislation as it deemed advisable, to the full Senate. According to an undated Commerce Committee press brief, released after Senate passage of S.Res. 222, the efforts of NOPS were geared to action from the outset, both in affecting legislation and in influencing decisions in the Executive Branch, rather than producing another lengthy written study. The intent was to accomplish this action-oriented agenda with special “black letter” reports on specific subjects, accompanied by proposed legislation, if appropriate. An additional benefit would be the communication on ocean-related issues within the Senate among Senators, committees, and professional staff members. Other publications, printed hearings, and committee prints would be issued by NOPS, timed to be effective in the policy formulation process within Congress.⁴

S.Res. 222 traces its roots to initial congressional interest dating back to 1959. In that year, the Senate adopted S.Res. 136 to focus attention on the ocean. The resolution stated, in part:

Expanded studies of the oceans and the ocean bottoms at all depths are vital ... to the rehabilitation of our commercial fisheries and utilization of other present or potential ocean resources, to facilitating commerce and navigation, and to expanding our scientific knowledge ...

That resolution urged action by the President on the recommendations released by the Committee on Oceanography of the National Academy of Sciences (NASCO) in a report entitled *Oceanography 1960 to 1970*. Later, in 1965, debate began on the Marine Resources and Engineering Development Act, culminating in its enactment in 1966 as P.L. 89-454. This Marine Sciences Act, as it came to be known, called for the United States to formulate a policy “to develop, encourage, and maintain a coordinated, comprehensive, and long-range national program in marine science for the benefit of mankind.” That Act established a cabinet-level council in the White House, chaired by the Vice President, and set in motion the studies of a special blue ribbon panel, the Commission on Marine Science, Engineering, and Resources. The work and recommendations of the Marine Sciences Commission were featured in a multi-volume report issued in 1969, *Our Nation and the Sea*.⁵ For its time, that

³ U.S. Congress. Senate. Committee on Commerce. *Authorizing a National Ocean Policy Study*. Report to Accompany S.Res. 222. Feb. 8, 1974. 93rd Congress, 2nd Session, S.Rept. 93-685. p. 1.

⁴ *Senate National Ocean Policy*. Senate Committee on Commerce press briefing memo, undated [February 1974]. p. 3 of 3.

⁵ Commission on Marine Science, Engineering, and Resources, *Our Nation and the Sea: A Plan for National Action*, Washington, DC: U.S. Government Printing Office, 1969. 305

report was a high point in focusing national concern and action on ocean programs and priorities. Lacking significant implementing legislation, many of the Commission's recommendations still awaited action as of 1973.⁶ It was this recognition of inaction that, in June 1973, led a number of Senators to begin working on drafting the text that became S.Res. 222.

Scope, Timetable, Activities, and Staffing

According to S.Res. 222, NOPS would include, but not be limited to, an examination of the issues involved in the following areas:⁷

- ! Marine fisheries and other living resources;
- ! Mineral resources of the seabed and subsoil;
- ! Coastal zone management;
- ! Ocean transportation;
- ! Research and technology;
- ! Law of the Sea;
- ! Government organization;
- ! Pollution;
- ! Federal budget; and
- ! Education.

Although there was no specific time limitation on the study, for all practical intents and purposes, NOPS was active from 1974 through 1994, after which time it no longer appears in the listing of organizational structure for the Senate Committee on Commerce, Science, and Transportation as reported in the *Congressional Staff Directory*, the *Congressional Yellow Book*, or the *Congressional Directory*. Through the 94th Congress (1975-1976), the Senate Commerce Subcommittee on Oceans and Atmosphere continued to exist, conducting most of the legislative business on oceans issues. During the 95th through 97th Congresses, neither NOPS nor a Subcommittee specifically related to oceans issues was noted under the Senate Committee on Commerce. Beginning in the 98th Congress, NOPS was included, along with other subcommittees, as part of the Senate Committee on Commerce, and progressively carried a larger legislative burden. Coincident with NOPS disappearance from these references, starting with the 104th Congress in 1995, a Subcommittee on Oceans and Fisheries was established in the Commerce Committee and assumed the legislative role for oceans issues. This subcommittee appears as part of the committee's organizational structure for each of the years 1995-2002. Although NOPS authority was still technically in existence, the Committee leadership elected not to invoke it, creating, instead, a standing Subcommittee on Oceans and Fisheries. In 2001, this subcommittee was renamed the Subcommittee on Oceans, *Atmosphere*, and Fisheries (italics added).

⁵ (...continued)

p. (See [<http://www.lib.noaa.gov/edocs/stratton/contents.html>] for a copy of this report.)

⁶ U.S. Congress. Senate. Committee on Commerce. *Authorizing a National Ocean Policy Study*. p. 3.

⁷ *Ibid.*, p. 4.

A search of the Congressional Information Service (CIS) database reveals that over a 21-year period from 1974 through 1994, NOPS activities, either solely or jointly with other Senate or House committees or subcommittees, resulted in the release of 89 publications (see table 1) in the form of congressional hearings or committee prints. The topics ranged across such issues as: outer continental shelf oil and gas development and the coastal zone; Law of the Sea; tankers and the marine environment; Soviet ocean activities; coastal effects of offshore energy development; fishery conservation and management; world energy outlook; renewable ocean energy resources; polar resources and polar oceans research; coastal zone management; federal ocean programs; global environmental change research; marine mammal protection; environmental satellites; global warming; weather services and research; and seafood safety and quality assurance. Over the 21-year period, based on the CIS database search, NOPS' most active years were 1976-1978 and 1987-1992.

Senator Ernest F. Hollings was the first chairman of NOPS. Although there were other chairmen in intervening years, Senator Hollings held the post from 1974-1976 and from 1987-1994. Senator Warren G. Magnuson was chair from 1977-1979; Senator Howard W. Cannon for 1980; Senator Bob Packwood from 1981-1984; and Senator John C. Danforth from 1985-1986.

NOPS was to have a core staff consisting of a director,⁸ counsel, professional staff members, researchers, and secretarial staff, who were to be part of the professional staff of the Committee on Commerce. NOPS functioned at the full committee level and was funded through the full committee by way of regular Senate Committee funding resolutions; however, funding resolutions examined did not give funding information specific to NOPS. A telephone conversation with staff at the Commerce Committee confirmed that NOPS was funded through the full committee's allotment. Consulting the *Congressional Yellow Book* and the *Congressional Staff Directory* for the years 1974-1994 shows that NOPS had as few as one and as many as six core staff assigned to it full time, including both majority and minority staff. Generally, it was either three or four, sometimes five, with an average of 3.95 full-time core staff. In addition, each of the other standing Committees were to select a staff member as point of contact to work closely with the NOPS staff. Finally, each Senator on NOPS was to assign a member of his personal staff to act as liaison. Although it was not mandated in S.Res. 222, NOPS was also to have established a National Ocean Policy Advisory Committee to facilitate communication between NOPS members and staff and outside sources of expertise. Members of that advisory committee were to be drawn from academic institutions, private industry, the bar, and environmental organizations.⁹ However, no record exists that such an Advisory Committee was ever created.

⁸ Staff directors/chief counsels of NOPS were John F. Hussey (1974-1975), Deborah J. Stirling (1976-1977), Christopher L. Koch (1978-1979), James S.W. Drewry (1980), Peter A. Friedmann (1981-1982), Dennis Phelan (1983-1984), Robert Eisenbud (1985-1986) James S.W. Drewry (1987), J. Michael Nussman (1987-1992), and Penelope D. Dalton (1992-1994).

⁹ *Senate National Ocean Policy Study*. Press briefing memo. p 2.

Achievements and Effectiveness

The 1969 Stratton Commission Report (named for Commission Chairman Julius Stratton), *Our Nation and the Sea*, followed on the heels of numerous writings about the potential of the ocean that could be most fully realized if the federal government were to take several leadership actions. The report's broad vision of a comprehensive federal approach to ocean topics garnered widespread public attention. This vision has never been fully translated into public policy, despite the efforts of many proponents until at least 1980. During the first years of NOPS, before 1980, the federal government was still seeking a comprehensive framework, most notably articulated in the Department of Commerce's 1978 report, *U.S. Ocean Policy in the 1970s: Status and Issues*.¹⁰

NOPS reflected this broad vision about the benefit of a comprehensive perspective. It had broad jurisdiction, but less than sole or comprehensive responsibility for ocean topics in the Senate. It was created at a time of wide-ranging congressional (and public) interest in ocean matters. Organizing virtually all ocean topics to be considered by the same Senators and the same staff (for some topics alone, and for others, jointly) allowed each topic to be looked at not only on its own, but also as part of a larger whole that comprised the effort in the 1970s to formulate a national ocean policy.

Congress never did try to enact a national ocean policy, but it responded to many of the major elements that were viewed as being critical to a comprehensive framework. After 1974, NOPS played a central role when the Senate addressed major ocean issues that had high public visibility and involved multiple dimensions. Among the most notable were: the U.S. response to completion of the multi-decade Law of the Sea negotiations; the push to develop offshore oil and gas resources in "frontier areas" in response to the energy crisis; and a major overhaul of fisheries law to protect and promote the domestic fishing industry while using science to more effectively manage commercial populations. For example, the Office of Technology Assessment (OTA) examined the potential impacts of offshore energy development at the request of NOPS in a 1976 study, entitled *Coastal Effects of Offshore Energy Systems*. NOPS took a broader view of ocean topics than other committees and subcommittees with more limited jurisdiction in committee prints like the 1974 study prepared by the Congressional Research Service (CRS), entitled *The Economic Value of Ocean Resources to the United States*. In addition, a major battleground in the "cold war" was the ocean, and it was widely believed that the outcome of that war could depend, in part, on use and control of the oceans. NOPS responded to this topic in a 1976 committee print prepared by CRS and consultants, entitled *Soviet Oceans Development*, that looked well beyond the military dimensions of Russian activity and potential in the oceans.

NOPS left a large, diverse, and impressive legacy of publication between 1974 and 1994. It published 89 hearing records and committee prints over that time period, with more committee prints (*i.e.*, studies) in the first decade and more hearing

¹⁰ U.S. Department of Commerce, *U.S. Ocean Policy in the 1970s: Status and Issues*, Washington, DC: U.S. Government Printing Office, 1978. 334 p.

records in the second. Much of this work went beyond specific legislative proposals to explore topics that were not being directly addressed through pending legislation. The earliest years were dominated by offshore energy development issues, and the final years were dominated by fisheries management issues. Those two issue areas received the most frequent attention in hearings records and committee prints attributed to NOPS. Many of the NOPS publications had a strong international dimension. Table 1 summarizes the main topics addressed by NOPS. Almost all of these hearing records and reports addressed multiple topics, but usually had a dominate theme.

Table 1. NOPS Publications (by main topic)

<u>Topic</u>	<u>No. of publications</u>
Energy (offshore development and marine transportation)	23
Fisheries	20
International (includes global climate change)	11
Coastal	9
Institutions (NOAA, Coast Guard, etc.)	6
Marine Protection (mammals, sanctuaries)	5
Science and Research	4
Waste and Marine Pollution	3
Weather	3
Omnibus	3
Consumer (food safety)	2

NOPS was small; it had fewer than 6 staff members most of the time. Almost all staff members were attorneys, and few were trained primarily as scientists. It dealt with this limitation by drawing on two congressional support agencies, OTA and CRS, to do major studies that it would publish as committee reports. OTA's work for NOPS was concentrated in the energy area, and CRS did work under many topics. Among the most notable contributions from CRS were legislative histories of major legislation, including the Fishery Conservation and Management Act and the Coastal Zone Management Act, while OTA's most notable work may have been a 1976 two-volume study of coastal impacts of major new energy-related development, entitled *Coastal Effects of Offshore Energy Systems*.

The NOPS approach — creating an entity with broad responsibilities — contrasts with the more segmented organization in the House to address the same suite of issues during the same time period. The House Merchant Marine and Fisheries Committee had jurisdiction over many ocean issues, but, like NOPS, shared some with other committees. It was divided into several subcommittees with responsibilities that changed from Congress to Congress, depending on how the chair and senior members saw the priorities and wanted to organize themselves. This organization allowed more staff and more Members to focus on various ocean issues. Since House committee and subcommittee staff were larger and had more diverse backgrounds than at NOPS, they drew less on OTA, CRS, and others for assistance and support. The trade-off for this type of organization was less integration of ocean topics. Any integration of issues had to occur at the full committee level, and the

record indicates this was not common. Both NOPS and the Merchant Marine and Fisheries Committee (as well as OTA) disappeared in the same year, 1995, in response to majority party emphasis on cost reduction and streamlining of government. The disappearance of these three resources has been associated with changes in how Congress addresses ocean issues, including less visibility, except in response to problems (*e.g.*, overfishing), and a less comprehensive examination of oceans topics than previously. These changes in approach to oceans issues are largely mirrored by similar changes in approach in recent Administrations.

Future Prospects

A number of recent events raise the question of whether the NOPS model might be worthy of renewed consideration for addressing oceans issues that might arise in the 108th Congress. Most importantly, the Oceans Act of 2000 (P.L. 106-256) set in motion a process that sought to replicate that of the Commission on Marine Science, Engineering, and Resources which produced the Stratton Report in the late 1960s. The Oceans Act of 2000 created a Commission on Ocean Policy that is to present a wide-ranging report to the 108th Congress in June 2003. Specifically, §3(f)(2) of P.L. 106-256 directed that this report include:

- ! An assessment of existing and planned facilities associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate platforms and technologies;
- ! A review of existing and planned ocean and coastal activities of federal entities, recommendations for changes in such activities necessary to improve efficiency and effectiveness and to reduce duplication of federal efforts;
- ! A review of the cumulative effect of federal laws and regulations on U.S. ocean and coastal activities and resources and an examination of those laws and regulations for inconsistencies and contradictions that might harm those ocean and coastal activities and resources, and recommendations for resolving such inconsistencies to the extent practicable (this review will also consider conflicts with state ocean and coastal management regimes);
- ! A review of the known and anticipated supply of, and demand for, ocean and coastal resources of the United States;
- ! A review of and recommendations concerning the relationship between federal, state, and local governments and the private sector in planning and carrying out ocean and coastal activities;
- ! A review of opportunities for the development of or investment in new products, technologies, or markets related to ocean and coastal activities;
- ! A review of previous and ongoing state and federal efforts to enhance the effectiveness and integration of ocean and coastal activities;
- ! Recommendations for any modifications to U.S. laws, regulations, and the administrative structure of Executive agencies, necessary to improve the understanding, management, conservation, use of, and access to ocean and coastal resources; and

- ! A review of the effectiveness and adequacy of existing federal interagency ocean policy coordination mechanisms, and recommendations for changing or improving the effectiveness of such mechanisms necessary to respond to or implement the recommendations of the Commission.

The range of issues that have arisen before the Commission during its early fact-finding hearings suggests that congressional attention to its reports might benefit from a coordinated approach. In addition, deliberations by a parallel private effort, The Pew Oceans Commission,¹¹ initiated by the Pew Charitable Trusts, will likely bring additional issues and concerns to the table in early 2003.

Advocates of reviving NOPS suggest that benefits of this action might include 1) a means for the comprehensive education of Members and staff, including Senate Commerce Committee Members, about oceans issues; 2) a mechanism for coordinating reports, briefings, and oversight hearings on key topics related to oceans issues; and 3) a way to consider specific oceans issues in a broader oceans policy context. Consideration might also be given to creating an entity independent of any particular parent committee, in recognition that committee jurisdiction concerns could impede work on issues that cross the boundaries of traditional committee jurisdiction when a single committee exercises a lead role.

On the other hand, critics of reviving NOPS are concerned that NOPS could 1) create another level of organization, duplicative of what already exists; 2) drain already scarce funds; and 3) limit effective control to one or a few Members. Some critics also question why an entity such as NOPS should exist in one Chamber, suggesting it would work better if a similar companion group were created in both Chambers or a joint House-Senate group were formed.

¹¹ See [<http://www.pewoceans.org/>] for activities of the Pew Oceans Commission.