

Important note: This material was produced by an informal, ad hoc RPB workgroup. The full RPB will be discussing these ideas in detail for the first time during the September 24-25 meeting. Public input is welcome before the meeting (by sending an email to MidAtlanticRPB@boem.gov) and during public input sessions at the meeting.

DRAFT Charter for the Mid-Atlantic Regional Planning Body

This draft Charter is provided for RPB consideration. It was composed as a high-level document affording the RPB flexibility in its conduct.

Introduction

Presidential Executive Order 13547 signed in July 2010 established our Nation's first *National Policy for Stewardship of the Ocean, our Coasts, and the Great Lakes*. The National Ocean Policy (NOP) provides an opportunity for interested coastal and ocean regions to engage in marine planning. Marine planning is a science- and information-based tool that can help advance local and regional interests, such as management challenges associated with the multiple uses of the ocean, economic and energy development priorities, and conservation objectives. To develop marine plans, representatives from all levels of government work together, publicly and transparently, as a regional planning body. Their work is informed by the expertise and perspective of stakeholders, whose participation ensures that the planning is based on a full understanding of the range of interests and interactions in each region. The scope, scale, and content of marine plans are defined by the regions themselves, to solve problems that regions care about in ways that reflect their unique interests, capacity to participate, and ways of doing business.

Purpose

This charter describes the purpose, participants, and a preliminary delineation of roles and responsibilities for the Mid-Atlantic RPB Members as they engage in regional marine planning. It will formalize member commitments to the principles of regional marine planning and to working constructively and cooperatively toward their identified regional goals and objectives. The charter is also a helpful reference for the public and partners seeking information about the roles and functions of this planning group.

It is important to note that the RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct federal, state, tribal, or local entities; nor does membership constitute a delegation of decision-making or legal authority to RPB Members. Further, participation on the RPB does not commit any non-Federal RPB Members to adopt resulting products or plans.

Mission and Scope

The mission of the Mid-Atlantic RPB is to implement and advance marine spatial planning in the region by coordinating with stakeholders, scientific, business, and technical experts, and members of the public to identify and address issues of importance to the region. The Mid-Atlantic RPB provides a forum for information sharing and coordination of regional marine planning activities that affect the states of Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia, and adjacent federal waters. The RPB will agree on a manageable geographic scope consistent with a set of regional goals and will establish measurable objectives that provide clear direction, outcomes, and timeframes for completion. The RPB will also develop a regional work plan that describes an agreed upon strategy for pursuing regional marine planning and delivering products. Through a capacity assessment, the RPB will identify existing activities and expertise that should be the starting point for subsequent planning efforts in the region. This work should be leveraged and expanded to advance a regional approach while not duplicating or hindering existing efforts.

The RPB will consult subject matter experts and those with traditional knowledge of or expertise in coastal and marine sciences and other relevant disciplines to ensure that regional marine planning is based on sound science and the best available information. The RPB will also ensure frequent and regular engagement of partners and the public throughout the process, including development, adoption, implementation, evaluation, and adaptive management phases of its work.

RPB Members and Roles

The membership of the Mid-Atlantic RPB includes Federal, State, and Tribal authorities relevant to marine planning for the region, and the Mid-Atlantic Fisheries Management Council. Federal, State, and Tribal authorities in the region will determine their own representation, identifying staffs that have professional responsibilities related to the use and management of ocean and coastal resources.

RPB members will provide data, resources, and tools that may be applicable to regional planning challenges and help identify legal authorities relevant to their participation. They will also work to ensure coordination of federal agency actions in support of Mid-Atlantic ocean planning goals and objectives.

RPB members may identify an individual with the authority to serve as alternates during RPB deliberations. An alternate must be a government official, authorized by the RPB member to act on his or her behalf, and stands in when the RPB member is not available. In addition to these alternates, RPB members may identify individuals to serve on working

groups and support the RPB, as needed. Each RPB member shall submit the names of their alternate and other representatives to the RPB co-leads.

State Members

State participants will represent their respective state interests, mandates, and goals in the overall regional planning process. The state member is typically an elected official, or the elected official's designated employee with the authority to act on his or her behalf on RPB matters. Each state Governor retains the authority to designate up to two representatives to serve as official representatives on the RPB from each Mid-Atlantic state.

States within the Mid-Atlantic region are:

- State of Delaware
- State of Maryland
- State of New Jersey
- State of New York
- Commonwealth of Pennsylvania
- Commonwealth of Virginia

Tribal Members

The RPB structure acknowledges the sovereign status of Mid-Atlantic federally-recognized American Indian Tribal Governments and recognizes the principle of government-to-government consultation. Each federally-recognized tribe is invited to have its own seat on the RPB and represent their respective tribal interests, mandates, and goals in the regional marine planning process. Tribal representatives must be an elected or duly appointed tribal official, or the tribal official's designated employee with the authority to draw on other tribal expertise and act on his or her behalf on RPB matters. The participation of federally recognized tribes as members of the regional planning body does not supplant the obligation of the Federal Government (in this case, the Federal agency members of the regional planning body) to conduct government-to-government consultation with potentially affected federally recognized tribes.

The National Ocean Policy explicitly recognizes the importance of enhanced coordination with federally-recognized tribal governments, specifically as it pertains to preservation of the Nation's heritage, including historical and cultural values. As partners in the regional planning process, tribes will be called upon to share their traditional knowledge and natural resource management expertise. Through this partnership, tribes can help all participants better understand treaty rights, traditional knowledge of marine ecosystems, and tribal scientific capacity.

Interest has been expressed by the following federally-recognized tribes:

- Shinnecock Indian Nation

Federal Members

Federal agencies will identify one representative to serve as their agency's official representative to the RPB. Federal members are subject-matter experts with sufficient seniority and expertise to enable them to represent their agencies on the RPB. While it is recognized and agreed by all parties to this charter that Federal representatives do not have authority to direct all relevant actions in their respective agencies, they will be responsible for encouraging regional consistency with national programs and activities. As the RPB gets more specific with the development of its work plan, it is expected that federal members will bring the full capacity of their agencies to the initiative by involving additional appropriate federal colleagues with needed expertise.

Entities include:

- Department of Agriculture
- Department of Commerce
- Department of Defense
- Department of Energy
- Department of Homeland Security
- Department of the Interior
- Department of Transportation
- Environmental Protection Agency
- Joint Chiefs of Staff

Mid-Atlantic Fisheries Management Council (MAFMC) Member

Membership of one MAFMC representative on the RPB provides a formal mechanism to incorporate fishery related issues, which is important given the Council's unique statutory responsibilities of Regional Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. The MAFMC member will have specific knowledge of fishery marine resources and management in Mid-Atlantic waters. Officials identified by the MAFMC to serve as RPB members shall represent the fishery management council in his/her capacity as federal, state, tribal, or local government officials.

Ex-Officio Members

The role of ex-officio members is to participate in discussions, share perspectives, and offer expertise, but an ex-officio member cannot participate in regional planning body decision-making. Given that activities in the Mid-Atlantic planning area may affect other regions and vice-versa, ex-officio memberships may be extended by letter of invitation to representatives from adjacent states. It is desirable that State members from adjacent regional planning bodies also sit on the Mid-Atlantic regional planning body as ex-officio members to help integrate and enhance consistency across regional marine planning efforts. The RPB may also extend ex-officio status to additional federal agencies (e.g., U.S. Army Corps of Engineers and the Federal Energy Regulatory Commission) and federally-recognized tribes with interests in the Mid-Atlantic.

Local Government Participation

The RPB will provide mechanisms for meaningful local government input into the regional marine planning process through its state and tribal RPB members. State and tribal members will work with existing local entities to identify issues and communicate ideas back to the full RPB by establishing new forms of two-way communication or using existing consultative bodies that include but are not limited to local authorities. This approach recognizes that mechanisms for participation may evolve through time as local representatives are further engaged in the regional marine planning effort.

RPB Member Commitments

RPB members commit to participating in Mid-Atlantic regional marine planning to the extent practicable and consistent with their existing authorities. RPB members agree to participate in the development of a process to create and implement regional marine planning products and build a framework for improved coordination and decision making. This cooperative regional approach will build partnerships that encourage sharing of information and best practices, help foster mutually agreed upon goals and objectives, and make more effective use of scarce resources by focusing those resources on the highest regional priorities and reducing duplication of effort. Specifically, members (on behalf of the entity they represent) will commit in good faith to:

- Fulfill the role of representing their agency, Governors, or tribe on the RPB
- Participate in and attend RPB meetings, or ensure a proxy represents their interests
- Build a cooperative, open, and transparent process
- Participate in development of a process, timeline, goals, and work plan
- Incorporate the National Ocean Policy goals, principles, and objectives into the planning process as outlined in the National Ocean Council's Marine Planning Handbook
- Consider providing additional support (e.g., technical assistance, data, and information) to ensure RPB functions can be fulfilled

The Members agree, to the extent practicable and consistent with their underlying authorities, to participate in the process for marine planning as described in Executive Order 13547. This charter reflects an agreement for planning and coordination purposes and is not binding on the members. Members agree that the commitments contained in this charter are not enforceable and do not create financial or legal obligations or affect existing rights beyond those created by existing statute or regulation.

The Executive Secretariat

The Mid-Atlantic RPB includes Federal, State, and Tribal representatives. The RPB has three co-leads: Federal, State, and Tribal. Federal, State and Tribal RPB members will select their respective co-leads independently. The three co-leads form the Executive Secretariat. These

co-leads do not have decision-making authority over regional planning work; instead, their shared role is to facilitate and guide the regional planning process.

Co-leadership will be rotational and based on a two-year term. The State and Tribal co-leads have no financial obligation to support the operations of the RPB. The Federal co-lead provides the staffing and resources necessary to administer its role, to the extent resources allow.

Note to reviewers: In the *Marine Planning Handbook*, the NOC recommends 2-year terms of office for each co-lead. The RPB may extend the terms or identify new co-leads. The RPB needs to consider whether or not to limit the number of successive terms a co-lead may have and include this in this charter.

In consultation with RPB members, co-leads may consider and decide how to fulfill the following roles and responsibilities:

- Guide, facilitate, and provide professional capacity to support timely regional work;
- Perform Executive Secretariat functions for the Regional Planning Body, such as calling meetings, developing meeting agendas, taking and distributing meeting minutes, record keeping, communicating with the National Ocean Council, and performing other administrative duties, as appropriate and necessary;
- Communicate, coordinate, and when practical, establish partnerships with existing regional bodies such as the Mid-Atlantic Regional Council on the Ocean (MARCO), Mid-Atlantic Regional Association for Coastal Ocean Observing Systems (MARACOOS), and others;
- Coordinate with the RPB members to establish working groups;
- Promote collaboration among RPB members and seek consensus;
- Coordinate public outreach and stakeholder engagement as part of the regional planning process; and
- Facilitate development of a series of marine planning products as determined by the RPB.

Relationship with Existing Authorities

The RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct Federal, State, tribal entities, local governments, or the MAFMC. Agencies involved in this effort administer a range of statutes, regulations, and authorized programs that provide a basis to implement regional marine planning. The process and decision-making for regional marine planning will be carried out consistent with and under the authority of these existing statutes, regulations and authorized programs.

While regional marine planning cannot supersede existing laws and agency authorities, it is intended to provide a better framework for application of these existing laws and authorities. Marine planning is intended to guide agency decision-making, and agencies

would adhere to the plan and/or other products to the extent possible, consistent with their existing authorities

Procedural Elements

The basic procedural elements for how the RPB will conduct business, decision making, and dispute resolution are identified below:

Conduct of Business

The RPB will meet at the call of the Executive Secretariat in person, by phone, or other electronic means. The Executive Secretariat shall seek input on meeting agenda topics from its members. The RPB will establish procedures, based on a consensus approach, to consider and address new issues, regularly report out findings or progress made at regular meetings, and receive public comment throughout the process.

Decision-Making

Regional planning bodies will make a number of decisions to guide development of marine plans. Decisions of the regional planning body are not made by vote, but through discussion and agreement—general consensus—among the members. General consensus means the absence of express disagreement by a member, but does not require unanimous concurrence. This approach ensures that all members of the regional planning body have an equal voice in decision-making.

There may be times when regional planning body members cannot come to agreement on a particular issue. In an instance where express disagreement by a member on a particular issue prevents general consensus, the co-leads will facilitate discussion to develop a solution that addresses the member's concern. This may entail providing more information, modifying a proposed action, or developing an entirely new approach to address the issue. If an issue between Federal agencies prevents the regional planning body from achieving general consensus, and discussion at the regional planning body level cannot resolve the issue, it can be raised to the National Ocean Council for resolution. The National Ocean Council will not seek to resolve issues between Federal and non-Federal members. However, it is available as a collaborative resource to suggest possible solutions to specific issues if non-Federal members want to raise an issue for consideration.

Administrative Provisions

By signing this charter, members agree to participate in the Mid-Atlantic regional marine planning process to the extent practicable and consistent with their existing authorities.

1. This charter shall take effect on the date of the last approving signature.
2. The members may modify this charter by developing and agreeing to a written amendment.

3. When individuals that represent an RPB entity change, a new charter is not required and the individual will be asked to sign.
 4. A Federal agency, State, tribe, or any other entity based upon the guidance of the National Ocean Council joining the RPB as member after the execution of this charter will be asked to sign.
 5. A non-Federal member may withdraw from this charter by providing written notice to the RPB co-leads. Withdrawal from this charter by a Federal member requires notice to the federal co-lead, and subsequent concurrence by the NOC.
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Signatories

[Signatures of RPB members -- each signature by an RPB member is provided on behalf of the agency/entity their membership represents]