

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Tue, Nov 18, 2014 at 8:19 AM  
Subject: Re: Comments on draft documents  
To: [jrafter@mdcoastalbays.org](mailto:jrafter@mdcoastalbays.org)

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Mon, Nov 17, 2014 at 5:09 PM, Jennifer Rafter <[jrafter@mdcoastalbays.org](mailto:jrafter@mdcoastalbays.org)> wrote:  
Please see attached for comments from the Maryland Coastal Bays Program on the current draft documents. Thank you for providing the opportunity to comment.  
Sincerely,

Jennifer Rafter  
Programs Manager  
Maryland Coastal Bays Program  
(410) 213-2297 x 109  
[jrafter@mdcoastalbays.org](mailto:jrafter@mdcoastalbays.org)



## **MARYLAND COASTAL BAYS PROGRAM**

8219 Stephen Decatur Highway  
Berlin, Maryland 21811  
(410) 213-2297 - PHONE  
(410) 213-2574 – FAX  
mcbp@mdcoastalbays.org  
www.mdcoastalbays.org

November 17, 2014

### **Mid-Atlantic Regional Planning Body Co-Leads:**

Ms. Maureen Bornholdt  
Renewable Energy Program Manager  
Bureau of Ocean Energy Management U.S. Department of the Interior  
1849 C Street  
NW Washington, D.C. 20240

Ms. Gwynne Schultz  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

Mr. Gerrod Smith  
Chief Financial Officer  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

### **Re: The Mid-Atlantic Regional Planning Body's Draft Documents**

Dear Ms. Bornholdt, Ms. Schultz, and Mr. Smith:

Thank you for hosting the November 10<sup>th</sup> Mid-Atlantic Regional Planning Body Listening Session at the Marlin Club in Ocean City, Maryland. Several of the Maryland Coastal Bays Program staff were able to attend including myself and we appreciated its value in giving the stakeholders a voice.

We are hopeful that estuaries will be considered part of the geographic area in the current draft of the Ocean Action Plan. We applaud the recognition for the necessity of coordinating closely with bays, estuaries, and coastal areas and would encourage this collaboration be increased. We believe that value would be added by looking at opportunities for including the coastal bays in the Regional Ocean Assessment due to the very close physical proximity of coastal bays to the open ocean.

We would like to see a more defined plan of action on how you plan to work with the estuary programs and on what topics. There are more areas of overlap than may be addressed here but a few examples follow. We would like to see a formal relationship established that included issues such as offshore energy development. The primary mandate of the estuary programs is to address water quality issues derived largely from land-based pollution. We have no formal mandate, experience, or capacity to deal with offshore development as it will impact the estuaries. This includes the redevelopment of the Ocean City harbor and the placement of cables related to offshore energy.

Climate change is another one of many issues on which we would like to see a formal partnership. As an estuarine community, we are beginning to refocus our programs with an eye to adapting to climate change, an issue that is of equal importance to Mid-Atlantic RPB. Other examples of overlap between the coastal bays and ocean uses include on-the-water conflicts and major navigational issues.

We would also strongly encourage that representatives from the National Estuary Programs be included on the MARCO stakeholder committee. The Framework provides support for this idea on page 4 where it states “The MidA RPB recognizes the importance of bays, estuaries, and coastal areas and will draw connections and coordinate closely with the entities responsible for the management and planning of the bay, estuarine, and coastal areas of the Mid-Atlantic for planning purposes, particularly in such cases where the ocean uses and natural resources have an interrelationship with coastal communities, bays, estuaries, and ports or other shore side infrastructure.”<sup>1</sup>

We appreciate the opportunity to share these recommendations with you and would be happy to discuss these items in more detail. We value the effort you have invested in this work and look forward to the strong plan that will emerge from this initiative to help ensure sustainable and beneficial uses for our ocean and coasts.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Wilson Jr.", written in a cursive style.

Dave Wilson Jr.  
Executive Director  
Maryland Coastal Bays Program

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<sup>1</sup> May 21, 2014. Mid-Atlantic Regional Ocean Planning Framework.

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Wed, Nov 19, 2014 at 9:48 AM  
Subject: Re: comments on planning documents  
To: Carolyn Cummins <[ccummins@dmv.com](mailto:ccummins@dmv.com)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

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On Tue, Nov 18, 2014 at 5:16 PM, Carolyn Cummins <[ccummins@dmv.com](mailto:ccummins@dmv.com)> wrote:  
Attached please find my comments on the planning documents. I hope this is the right location to send them.

Please know that I have enjoyed being involved in this process because I have learned so much. I look forward to the next steps. Guess I have Gwynne to thank for that.

Carolyn

Carolyn Cummins

██████████  
██████████  
November 18, 2014

Mid-Atlantic Regional Planning Body

Re: Draft Mid-Atlantic Regional Planning Body Documents

Thank you for the opportunity to comment on these documents. I attended the public listening session on Monday, November 10, 2014. I found the public statements interesting and want to comment on two of them before getting to the documents specifically.

The first comment was made by Monty Hawkins and probably taken in jest. He said your goal should be to turn the ocean from green to blue. The public surely finds this a much more understandable goal than “to promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration”.

The second comment was made by one of the presenters who said “so far we have had no representative from energy at any of our meetings.” For those concerned that your exercise is to find ways to facilitate wind energy, that statement was no comfort. More it reflects the public attitude that all this is a done deal and it doesn’t matter what other stakeholders have to say. That energy companies feel they don’t need to participate as stakeholders is more indicative that they know they don’t need to have a voice as part of the public because they have other avenues.

That said, I have hope in just the fact that this planning body exists and is getting so many government agencies together. Getting to know what each other are doing will be protective no matter how far this process goes. I would encourage the planning body to take heart in that if for some reason the political climate slows down or ignores the products of your labor. As an active stakeholder in the process that created the MD Coastal Bays Program and its comprehensive conservation management plan, I can tell you that just getting all the government levels and agencies in the same room talking has done more good than all 505 actions. It has led to greater cooperation as well as less duplication.

**Mid-Atlantic Regional Ocean Action Plan Options:** What I find most intriguing about your planning process is the mapping of the various activities in the ocean. I had no idea of some of the things going on right off our coast. I may have misunderstood, but I think I heard mapping was not going to continue (option E). I can understand the difficulty in creating one map to show everything but I also know visual is a lot easier for people to comprehend than words.

Guess I don’t quite understand what the “portal” is but do suspect it will create the visual I so strongly support. I just wonder how effective being on line only will be. I live in a county of 55,000 where about 50% are retired and many of them don’t have internet access. I encourage you to produce some visual

document(s) that will show the variety of uses/activities going on in our ocean. That said, I do support the conclusion of the use of options B, C & D over options A & B and in particular I look forward to seeing the areas of greatest conflict of uses and/or jurisdiction and how your planning body plans to address them with specifics beyond the outline presented.

I wonder about three things in particular. Are the ocean outfall locations being considered? Some of them are great fishing locations but I am more interested in the tracking of their nutrients. Which leads to my actual greater concern that is: What are the ocean impacts on our coastal estuaries? Or more specifically - What impact incoming tides, normal and under storm conditions and under upwelling conditions, are having on nutrient inputs in our coastal bays? The same can be said for the ocean dumping practices of some of our neighboring states that goes on even further off the coast. Our oceans are huge, but they & the creatures within them are also suffering from human impacts. The real purpose of this ocean initiative is to make them healthy again while allowing for human uses within them. Are we willing to make decisions that curtail human use in order to allow the oceans to recover? I realize this planning body is not a regulatory body so I hope whatever recommendations are ultimately made, they are strong enough to encourage action and not written in the typical wishy-washy government speak.

**Mid-Atlantic Regional Ocean Planning Framework:** Much of this section exemplifies the wishy-washy speak I just referenced. I do find it interesting that there is a claim that “neither goal has been assigned higher priority” but then under “objectives” preference seems to be given to national security and ocean energy not because they are listed 1) and 2) but by the choice of words like “early in decision-making” and “facilitate”. No wonder so much of the public comment on November 10<sup>th</sup> was about energy. Plus any projects resulting from the goals or objectives are going to be subject to funding. I worry about funding priorities of elected officials conflicting with planning goals and more specifically what plans this planning body has to educate those elected officials.

I am very interested in learning more about the sand and gravel resources, the tribal uses and ocean aquaculture referenced in the objectives. I do not have any additional objectives to suggest but I do wonder if the needs of a small port like the West Ocean City harbor are going to get lost in the needs of the larger ports in our region. We are already looking at a loss of opportunity for funding dredging to keep our harbor open when compared to the dredging needs of those harbors affected by the deepening of the Panama Canal.

Finally as stated earlier, I would like to know more about the “portal” but admit that I don’t have internet capacity to even get past page 1 on the site.

**Status of the Mid-Atlantic Regional Ocean Assessment:** Like much of the other documents referenced above, I find that you have done excellent work in organizing the process, creating the goals and objectives and chartering your future course. I particularly like your intent of making this a living document evolving overtime; just make sure the dates of the updates are clearly marked. I do wonder if there are other cultural or socio-economic resources that need to be considered. I do not have

specifics but I wonder if there might be a settlement, not tribal, that could be submerged since dry land once went much further out to sea. Some of the topics listed under “tribal uses” make apply to other cultures – Viking, Spanish or even some now unknown species. We know that as Assateague is rolling over itself and as storms pass by that parts of the previous above water Assateague Island are showing up. Guess I am trying to say that cultural resources deserve a category of their own in the “major sections”.

**Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement:** As far as I am concerned this is the most important part of your plan. If we don’t have the public engaged and understanding the challenges there won’t be much of a chance to influence the elected officials I referenced earlier. If you rely only on the electronic media, there won’t be much of a chance of support from the elder generation of which I am one. Guess who votes more consistently. Guess who has more time to appear at hearings or write letters to the editor. We are the ones who will jump-start this. There also needs to be a user friendly public document perhaps even more than one. The challenge I see is that although all those living near the coast are your natural constituency, there is no general public organization within communities needed to be engaged devoted to ocean issues. There are several national estuary programs located in the area covered by this planning body. Perhaps they can be engaged in getting the message out.

That leads to my final comment about the makeup of your group and perhaps the best way to engage the public. There are a number of government agencies listed, but no local/municipal representatives. It is the various communities along the coast that need to be engaged. They should be involved in the planning process. It isn’t practical to have each community represented but perhaps one from each state or perhaps other states have organizations like the MD Association of Counties or the MD Municipal League who could have representation. Perhaps there are events that occur in these local governments that your planning group can take advantage. One that comes to mind is every January 1 the Ocean City Council hosts a thematic open house at City Hall. It is well attended. Perhaps this planning body could establish a theme – Turning our green oceans blue again! I know people would be very interested in all the activities/uses just off our coast. Just food for thought!

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Thu, Nov 20, 2014 at 3:29 PM  
Subject: Re: TNC Comments\_Mid-Atlantica RPB  
To: Michelina Ferate <[mferate@tnc.org](mailto:mferate@tnc.org)>  
Cc: "[midatlanticRPB@boem.gov](mailto:midatlanticRPB@boem.gov)" <[midatlanticRPB@boem.gov](mailto:midatlanticRPB@boem.gov)>, Lise Hanners <[lhanners@tnc.org](mailto:lhanners@tnc.org)>, "Michelle B. Lakly" <[mlakly@tnc.org](mailto:mlakly@tnc.org)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

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On Thu, Nov 20, 2014 at 3:10 PM, Michelina Ferate <[mferate@tnc.org](mailto:mferate@tnc.org)> wrote:  
On behalf of Michelle B. Lakly, Ph.D., Eastern U.S. Division Director for The Nature Conservancy, attached please find the Conservancy's comments on the Mid-Atlantic Regional Planning Body's most recent draft documents.

Please consider the environment before printing this email

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**Michelina Ferate**  
*Director of Operations,  
Eastern Division*

[mferate@tnc.org](mailto:mferate@tnc.org)  
(703) 841-5682 (phone)  
(703) 517-2946 (mobile)  
michelina.ferate (skype)

**The Nature Conservancy**  
**Worldwide Office**  
4245 N. Fairfax Drive, Suite 100  
Arlington, VA 22203-1606

[nature.org](http://nature.org)



November 20, 2014

Gwynne Schultz, Maryland Department of Natural Resources, State Co-Lead  
Kelsey Leonard, Shinnecock Indian Nation, Tribal Co-Lead  
Robert LaBelle, Bureau of Ocean Energy Management, Federal Co-Lead

*Submitted via email to: [midatlanticRPB@boem.gov](mailto:midatlanticRPB@boem.gov)*

Dear Ms. Schultz, Ms. Leonard and Mr. LaBelle,

Thank you for this opportunity to provide comments on the Mid-Atlantic Regional Planning Body's (MidA RPB's) most recent draft documents. This letter contains comments on the Mid-Atlantic Regional Ocean Action Plan Options and Regional Ocean Assessment Status documents recently posted for public review. The Nature Conservancy appreciates and supports your efforts to date, and we appreciate the time and resource challenges you face in producing a plan for National Ocean Council certification before the end of 2016. We hope these comments are helpful in your efforts to develop a Regional Ocean Action Plan that will produce tangible benefits for the region's coastal and marine habitats and species while sustaining diverse ocean-dependent values, uses and industries.

### **Mid-Atlantic Regional Ocean Action Plan Options**

The options that the RPB has laid out represent a positive step forward in conceptualizing a plan format. Presenting five options along the scale from process to geographic orientation and characterizing the one end of the range (Option A) as insufficient and the other (Option E) as "too extreme" has stimulated good discussion. However, the emphasis that has been placed on process and geographic orientation may unintentionally lead commenters to overlook the opportunity to craft a plan structure that considers other important dimensions. We appreciate that the draft document discusses these other factors and recognizes the need to consider hybrid approaches. Accordingly there is not a stand-alone option that we favor, and this letter focuses on the dimensions of the different options that we believe are most important.

The Nature Conservancy submits that it is important for the Regional Ocean Action Plan to outline the commitments being made by RPB entities to use the plan in future decision-making under their existing statutes and regulations. Without this explicit commitment, it will be difficult for stakeholders to understand the benefits of implementing the ocean plan. We recommend thoughtful review of the approaches to agency commitments developed by the Northeast RPB, much of which is directly relevant for the Mid-Atlantic as many of these decision-making processes extend across both regions.

In addition, The Nature Conservancy recommends that the Regional Ocean Action Plan be as geographically comprehensive and as spatially explicit as possible given available data. Fortunately, nearly all of the spatial data currently presented on the Mid-Atlantic Ocean Data Portal covers the entire region, as does most of the spatial data currently in development. We are concerned that limiting focus to sub-geographies or categories of places (e.g. bay mouths, submarine canyons) in an effort to reduce plan cost and complexity will undermine basic goals for regional-scale ecosystem based management. The Mid-Atlantic region is particularly important for both cross-shelf and north-south migratory species (marine wildlife and fishes) and also for diverse human uses that span the entire region (e.g. shipping, fishing, potentially offshore power transmission). Accordingly, region-wide data development, analysis and plan development is critical for meeting Goal 1 and Goal 2 of the RPB's Ocean Planning Framework. We recognize that in certain situations, it may be appropriate to focus planning efforts on sub-geographies or place categories (within a full regional context) as triggered by priority issues.

The Conservancy recognizes that a comprehensive plan with detailed process and management elements and supporting spatial data for addressing all issues, sectors, and places is not feasible by 2016. As an alternative, we recommend comprehensive identification of issues with special attention to the highest priority issues selected by the RPB based on consultation with stakeholders and agency staff. These issues may largely be identified and characterized during the production of the Regional Ocean Assessment. We note that this plan is not an endpoint and will need to be updated over time to incorporate new information and address emerging priorities. The plan should outline how this will be accomplished by the RPB during subsequent deliberations.

Each of the Options A-E has useful elements as described, yet some of their differences seem highly nuanced or ripe for subjective interpretation. We interpret Options A and (especially) C as the ongoing positive outcomes of a good regional plan (agencies make better decisions because they have more information and enhanced understanding of the context of these decisions) rather than as a type of plan. The discussion during recent public listening sessions suggested that Option B (Compatibility Assessment) would actually be required for Options C, D and E, and we concur. We submit that the compatibility assessment needs to consider potential conflicts between co-occurring human uses, and equally importantly, to consider compatibility between those human uses and the important ecological areas that sustain much of the region's ocean-based economy. As described further below, if such areas are not defined, the plan's utility in meeting MidA RPB goals will be limited.

Finally, we wish to point out that while Option E as described sounds daunting and impractical, it represents the kind of Ocean Plan envisioned by the *Final Recommendations of the Interagency Ocean Policy Task Force* and subsequent National Ocean Council documents. The actual feasibility and degree of difficulty in reaching agreement on a more comprehensive plan depends entirely on the degree of complexity and specificity that is

envisioned—the meaning that each person subjectively superimposes on the word “comprehensive.” For example, the Massachusetts Ocean Plan and many similar plans around the world are nearly or completely comprehensive but specify relatively few types of use areas, with the majority of ocean space deemed compatible for multiple uses. We also note that the concept of maps indicating “optimal use” is likely to be divisive. An alternative approach is to identify areas with multiple prioritized uses, with highest priority uses (e.g. fishing, transportation, conservation) getting extra consideration when issues arise.

In summary, the Conservancy recommends development of a hybrid option that will produce a Regional Ocean Action Plan that has broad support and utility, to result in tangible measurable benefits for the region. As described above, we submit that this option should be comprehensive in scope with regard to both geography and issues, and tightly linked to RPB commitments regarding how the plan will be used to address the highest priority issues identified by stakeholders during plan development.

### **Status of the Mid-Atlantic Regional Ocean Assessment (ROA)**

The Nature Conservancy believes that the MidA RPB is on the right track with regard to the ROA, with a significant exception: the omission of a process to identify important ecological areas. This is particularly concerning given the Vision statement, Principles and Goal 1 in the Mid-Atlantic Ocean Planning Framework, reprised here for reference.

#### ***Vision:***

*A Mid-Atlantic ocean where safe and responsible use and stewardship support healthy, resilient, and sustainable natural and economic ocean resources that provide for the wellbeing and prosperity of present and future generations.*

#### ***Healthy Ocean Ecosystem Goal:***

*Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration.*

We submit that it is not possible to develop a plan that maintains or improves ocean ecosystem health through responsible use and stewardship without identification of important ecological areas. Simply put, federal, state, and local agencies cannot manage, protect or restore ecosystems, habitats and species without knowing where they are located in space and time. Once the ROA’s topical outline is expanded to more fully cover the Region’s most important habitats and species, each section should include maps showing their distribution and abundance, as well as maps showing “hot spots” or areas of particular importance. These habitat and species maps will be needed to address specific issues (e.g. protecting deep sea coral without unnecessarily restricting fishing) as well as serving as essential indicators for revealing the places that are critically important for multiple species, a first step in the identification of ecologically important areas.

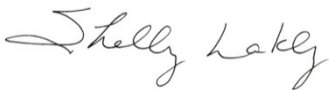
There is considerable relevant expertise and recent data development activity within the Northeast/Mid-Atlantic region(s) to consider, including the Conservancy’s peer-reviewed

Northwest Atlantic Marine Assessment. The Conservancy worked with agency and academic scientists to develop methods for mapping the locations where key species are most abundant and persistent over time. The persistence variable revealed more about ecological importance than species abundance or diversity alone. Additionally, identifying benthic areas of high steepness and/or structural complexity is another practical approach for identification of habitats typically well-correlated with above average concentrations of marine life. The NE Regional Planning Body has recently developed additional thoughtful options that expand on these approaches.

The Conservancy strongly recommends that the ROA process provide opportunities for expanded participation by agency and tribal staff as well as input and peer review from the region's science community through topic-specific working groups. We also suggest that the RPB convene two or more interactive peer review workshops for scientists and other key stakeholders early in the ROA production process. This would be an effective way to engage the region's science community and would enhance the quality and legitimacy of ROA documents and maps.

Again, thank you for the opportunity to share our views on the options presented in the MidA RPB's Ocean Action Plan and Assessment documents. We very much appreciate your vision and leadership in this critically important endeavor. Your work and focus over the next several months are critical for securing the future for our region's ocean resources and those who depend on them. Please do not hesitate to contact us if you'd like clarification on any of these comments or additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "Shelly Lakly".

Michelle B. Lakly, Ph.D.  
Eastern U.S. Division Director  
The Nature Conservancy

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Thu, Nov 20, 2014 at 4:40 PM  
Subject: Re: Surfrider Mid-Atlantic Comments  
To: Matt Gove <[mgove@surfrider.org](mailto:mgove@surfrider.org)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

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On Thu, Nov 20, 2014 at 4:04 PM, Matt Gove <[mgove@surfrider.org](mailto:mgove@surfrider.org)> wrote:  
Thanks!  
Matt

Matt Gove  
Mid-Atlantic Policy Manager  
Surfrider Foundation  
[mgove@surfrider.org](mailto:mgove@surfrider.org)  
952-250-4545



**November 20, 2014**

Robert LaBelle, Federal Co-Lead, Mid-Atlantic Regional Planning Body  
Senior Advisor to the Director  
Bureau of Ocean Energy Management, U.S. Department of the Interior

Gwynne Schultz, State Co-Lead, Mid-Atlantic Regional Planning Body  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources

Kelsey Leonard, Tribal Co-Lead, Mid-Atlantic Regional Planning Body  
Shinnecock Indian Nation

***RE: The Mid-Atlantic Regional Planning Body's Draft Documents: Mid-Atlantic Regional Ocean Action Plan Options, Status of the Mid-Atlantic Regional Ocean Assessment, and Mid-Atlantic RPB Interim Plan for Stakeholder Engagement***

Dear Mr. LaBelle, Ms. Schultz, and Ms. Leonard,

On behalf of the Surfrider Foundation (Surfrider), our thousands of Mid-Atlantic members, volunteers, and supporters—and nine chapters in New York, New Jersey, Delaware, Maryland, Virginia, and DC—we thank you for the opportunity to comment on the documents, *Mid-Atlantic Regional Ocean Action Plan Options, Status of the Mid-Atlantic Regional Ocean Assessment, and Mid-Atlantic RPB Interim Plan for Stakeholder Engagement*, released October 24<sup>th</sup>, 2014.

Surfrider thanks the Regional Planning Body (RPB) for committing to the development of a *certified* Regional Ocean Action Plan (Plan) by 2016. The sooner we have a final Plan, the sooner agencies can refine their actions and align their authorities to common ocean management goals.

We appreciate the efforts that RPB members have put forth under constrained staff and budget allotments. We applaud the work done so far to support coastal and ocean ecosystem health and the non-consumptive recreational activities reliant on them. Please consider the following suggestions.



## **MID-ATLANTIC REGIONAL OCEAN ACTION PLAN OPTIONS**

The Mid-Atlantic region depends on healthy coastal and ocean ecosystems for economic, ecological, and cultural values. The RPB's guiding document, *Mid-Atlantic Regional Ocean Planning Framework* (Framework), contains a Healthy Ocean Ecosystem Goal to, "Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration." Surfrider believes the only way to achieve this goal through the Regional Ocean Action Plan (Plan) is for the RPB to partner with the scientific community in identifying important ecological areas (IEAs) throughout the region that adequately connect important habitats, populations and ecological processes. The RPB also needs to identify the threats to these areas (alone and cumulatively), like damaging human uses and climate change.

After the RPB identifies IEAs and the threats to them, the next step is to develop a set of policies, standards, and procedures for inclusion in the Plan that will keep these important places healthy and functioning. The federal and state agencies involved with the RPB can then incorporate this policy guidance in the execution of their existing authorities and programs to ensure the achievement of the Healthy Ocean Ecosystem Goal.

Identifying and protecting IEAs does not mean that ocean uses cannot occur within those areas. The RPB should complete a compatibility analysis (Option B), identifying which ocean uses are compatible with each other, and with IEAs. For example, diving and recreational boating and fishing can be compatible with each other as well as important benthic habitats.

Surfrider suggests that additional information and examples about Options C, D, and E would be helpful to clarify exactly what each would entail. That said, Surfrider supports a hybrid of Options D and E, as it would provide a stronger approach for realizing the benefits of regional ocean planning, including the protection of IEAs, enhanced compatibility of various uses, and clarity for industry to guide and facilitate potential new development.

## **STATUS OF THE MID-ATLANTIC REGIONAL OCEAN ASSESSMENT**

Surfrider emphasizes the importance of a thorough Regional Ocean Assessment (ROA) to support the success and integrity of the regional ocean planning process. The RPB cannot make informed decisions for an ocean Plan without sufficient data and analysis. The ROA should record baseline information on coastal and ocean uses, ecosystem services, and natural resources, while looking to project the changes within those categories and the cumulative impacts changes can have on the system.

As noted in the draft document, an essential element to address within the ROA is "non-consumptive recreation". Non-consumptive ocean and coastal recreation in the Mid-



Atlantic region encompasses over twenty different types of uses, including beach going, wildlife viewing, surfing, kayaking, swimming, and diving. Collectively these activities are practiced by millions of residents and visitors, and generate billions of dollars in trip-related expenditures for Mid-Atlantic communities and the region as a whole. We are concerned that the draft ROA document does not break out non-consumptive recreation into more detailed categories. We realize this draft ROA outline was not meant to display every use and resource in the region, but want to emphasize that sectors included in non-consumptive recreation have different needs, and use different areas of the ocean. We would be interested in discussing further with the RPB about how to best characterize this large group of ocean and coastal users.

In 2014, the Surfrider Foundation partnered with Point 97, The Nature Conservancy, and Monmouth University to complete the Mid-Atlantic Coastal & Ocean Recreation Study (Study). Almost 1,500 surveys were completed for the Study, which included over 20,000 data points on where people recreate in the Mid-Atlantic. This geospatial data has been integrated into the Mid-Atlantic Ocean Data Portal to help inform the regional ocean planning process. In addition, a Study report is available which summarizes economic and demographic data collected (<http://www.surfrider.org/pages/6230>).

Finally, to assist in completion of the ROA, the RPB should convene an advisory panel of Mid-Atlantic coastal and ocean scientific experts. This panel would be useful beyond the ROA stage, to answer any scientific questions as the RPB moves forward. Surfrider and other members of the Study Team are available to participate in such an advisory panel.

#### **MID-ATLANTIC RPB INTERIM PLAN FOR STAKEHOLDER ENGAGEMENT**

Stakeholder engagement is crucial to the success of the RPB. We applaud the document, *Mid-Atlantic RPB Interim Plan for Stakeholder Engagement*, as a first step towards creating a Plan for the Mid-Atlantic that balances the needs of those that live, play, and work here. As much as possible, ideas within the document should be acted upon immediately. The RPB is at a critical moment in its process, and stakeholder engagement is needed to create a Plan that will have support from ocean users.

For example, Surfrider has commented before that a basic first step towards enhanced stakeholder involvement would be for each participating state and federal agency to harness the influence of their various communications platforms. Each agency has unique email lists and social media outlets that should be used to communicate opportunities to attend RPB meetings and provide comments on RPB documents. This is a low cost and time measure that could make a real difference in stakeholder participation. Additionally, more webinar opportunities could boost participation. Public meetings are often difficult for stakeholders to attend; webinars are an additional outlet and have proved popular with members of the public.





Surfrider continues to actively reach out to the broader non-consumptive recreational use community to solicit feedback and promote opportunities for public participation in the RPB process, as well as inform our participation as a member of the SLC. We have identified over 300 recreational user groups and businesses and contacted them by phone, email, eNewsletter, Twitter, Facebook, Instagram, personal visits, and through flyers and posters to request their participation in RPB public meetings and comment periods, as well as communicate basic information on the RPB process.

In 2015, Surfrider will organize workshops with other non-consumptive recreational groups in each RPB state to review the recreation data we collected as well as convey the importance of RPB participation. These workshops will be an opportunity to build relationships between different user groups and share information on highly used and prized recreation areas. Surfrider also plans to organize screenings of *Ocean Frontiers II* within the Mid-Atlantic to offer the general public an easy way to be informed on the RPB process. RPB member participation in these screenings, either through a panel discussion or otherwise, would make these events more impactful.

## **CONCLUSION**

Protecting non-consumptive uses like surfing and diving benefits both ocean ecosystems as well as economic and social values. To that end, the RPB should not include offshore oil and gas exploration and development in their planning process. The threats from oil and gas development to the Mid-Atlantic's main economic driver, tourism and recreation, are too great.

The Mid-Atlantic Regional Planning Body has the opportunity to protect our coastal and ocean ecosystems and the communities they depend on, before they are threatened. The Surfrider Foundation appreciates being part of this important process and we thank the RPB members for their contributions of time and energy in developing this framework. Together we can move forward with regional ocean planning, creating a stronger coastal and ocean ecosystem and economy in the Mid-Atlantic.

Sincerely,

Matt Gove  
Mid-Atlantic Policy Manager  
Surfrider Foundation

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Thu, Nov 20, 2014 at 4:43 PM  
Subject: Re: Recommendations for the Mid-Atlantic Regional Planning Body re: the Regional Ocean Assessment and the Regional Ocean Action Plan  
To: "Chase, Alison" <[achase@nrdc.org](mailto:achase@nrdc.org)>  
Cc: "[Robert.LaBelle@boem.gov](mailto:Robert.LaBelle@boem.gov)" <[Robert.LaBelle@boem.gov](mailto:Robert.LaBelle@boem.gov)>, "Gwynne Schultz -DNR- ([gwynne.schultz@maryland.gov](mailto:gwynne.schultz@maryland.gov))" <[gwynne.schultz@maryland.gov](mailto:gwynne.schultz@maryland.gov)>, "[KelseyLeonard@shinnecock.org](mailto:KelseyLeonard@shinnecock.org)" <[KelseyLeonard@shinnecock.org](mailto:KelseyLeonard@shinnecock.org)>, "[MidAtlanticRPB@boem.gov](mailto:MidAtlanticRPB@boem.gov)" <[MidAtlanticRPB@boem.gov](mailto:MidAtlanticRPB@boem.gov)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Thu, Nov 20, 2014 at 4:23 PM, Chase, Alison <[achase@nrdc.org](mailto:achase@nrdc.org)> wrote:

Below and attached please find a letter from several organizations regarding the Mid-Atlantic Regional Planning Body's work. Please feel free to contact me with any questions on these documents at 212.727.4551.

Sincerely,

Ali Chase

**American Littoral Society • Citizens Campaign for the Environment • Clean Ocean Action • Coastal Research and Education Society of Long Island • Greenpeace •**

**Institute for Ocean Conservation Science • Marine Conservation Institute • Miami2Maine • National Aquarium • Natural Resources Defense Council •**

**Ocean Conservation Research • St. Mary's River Watershed Association • SandyHook SeaLife Foundation • Surfrider Foundation • Virginia Chapter Sierra Club •**

**Wild Oceans • Wildlife Conservation Society**

November 20, 2014

**Mid-Atlantic Regional Planning Body Co-Leads:**

Mr. Robert LaBelle  
Senior Advisor to the Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Ms. Kelsey Leonard  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

Ms. Gwynne Schultz  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

*Submitted electronically*

**Re: Recommendations on the Mid-Atlantic Regional Ocean Assessment and the Regional Ocean Action Plan**

Dear Mr. LaBelle, Ms. Schultz, and Ms. Leonard:

On behalf of our organizations listed above and their millions of members and activists, thank you and the other members of the Mid-Atlantic Regional Planning Body (MidA RPB or RPB) for your work to develop a Mid-Atlantic Regional Ocean Action Plan (Plan) that will help ensure the continued functioning of our ocean's valuable resources and safeguard its sustainable use for this and future generations. We appreciate the opportunity to weigh in with you at this critical stage of Plan development and encourage the RPB to:

1. Call on the Regional Ocean Assessment Work Group (ROA Work Group) to partner with the science community to identify a network of important ecological areas for the Mid-Atlantic region;
2. Ensure that the final Plan helps protect and restore these places from threats they may face; and,
3. Adopt an ocean health index developed by the ROA Work Group and the science community that serves as a baseline against which to measure progress toward achieving our overall goal of ecosystem health for the Mid-Atlantic region.

Only by achieving this work will the RPB succeed in attaining the *Mid-Atlantic Regional Ocean Planning Framework's* (Framework) guiding Healthy Ocean Ecosystem Goal to “Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration.”<sup>[1]</sup>

We offer the recommendations below on the draft Plan materials,<sup>[2]</sup> building on the ideas that many of our organizations shared at the listening sessions, and look forward to further dialogue on these important decisions at the upcoming January RPB meeting.<sup>[3]</sup>

**I. The Regional Ocean Assessment should identify a representative network of important ecological areas.**

We are concerned that the current Regional Ocean Assessment (ROA) outline falls short of providing the analysis necessary for the RPB to structure a Plan that can achieve the Framework's Healthy Ocean Ecosystem Goal. Healthy, functioning marine ecosystems satisfy four principles by maintaining or restoring: 1) native species diversity, 2) habitat diversity and heterogeneity, 3) populations of key species, and 4) connectivity.<sup>[4]</sup> The ROA should include descriptions of each of these four attributes and note what the acceptable condition should be to achieve sustainable ocean health.

Currently, the ROA outline omits the criteria used to select the species and habitats included, nor any discussion of why certain taxa were excluded (*e.g.*, bat species and elasmobranchs). In the outline template, while the current status and trends for each species/habitat will be reported, there is no indication that this includes the biological and ecological condition of the resources nor does it appear that the ROA would report on an “acceptable status,” which is necessary for the Plan to know where restoration or additional protection is needed to secure the continued functioning of the system. Additionally, we are confused as to why ecosystem-based management is noted as a topic under Section I, as opposed to the guiding process that has driven this entire effort.<sup>[5]</sup> We also note that the ROA outline contains no discussion of cumulative impacts to important species and habitats, again a critical component of the ROA to ensure that the Plan is designed to avoid additional significant impacts.

Perhaps most concerning of all, the ROA outline is silent on the identification of important ecological areas. The *Final Recommendations of the Interagency Ocean Policy Task Force* (Final Recommendations) offers important guidance: “The regional assessment would include: relevant biological, chemical, ecological, physical, cultural, and historical characteristics of the planning area; ecologically important or sensitive species/habitats/ecosystems; and areas of human activities. The assessment would also include an analysis of ecological condition or health and of cumulative risks as well as forecasts and models of cumulative impacts.”<sup>[6]</sup>

We recommend that the ROA Work Group, together with the science community, identify a network of important ecological areas that adequately connects important habitats, populations and ecological processes. To safeguard marine biodiversity, it is important to identify a network of places that is:

- *Representative* of the area, including some proportion of every marine habitat type and/or species;
- *Resilient* to disturbances, of a size and configuration that natural and human-caused damage to some areas can be absorbed without jeopardizing the integrity of the network;
- *Redundant*, with more than one location of each biodiversity element presented to allow a margin of safety; and
- *Connected*, so that discrete important areas are linked in a way to preserve important ecological processes and populations.[\[7\]](#)

Work is also needed to identify how threats, like pollution, habitat destruction, and climate change, are impacting the health of these key ecological species and habitats so we know how much area needs to be part of the network in order for it to be resilient. This network, if protected, would help ensure continued functioning of our ocean ecosystem and the many uses that rely on it.

Essentially, just as the Mid-Atlantic Regional Council on the Ocean (MARCO) Data Portal includes base layers for all different kinds of uses from shipping to wind energy, we need the ROA Work Group to work with the science community to analyze the existing natural resources data strands and recommend an ecological base layer that conveys where the most important places are for ecological functioning.

Regional ocean planning requires this work. The Final Recommendations state regional ocean planning should “improve ecosystem health and services by planning human uses in concert with the *conservation of important ecological areas, such as areas of high productivity and biological diversity; areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding, and feeding; areas of rare or functionally vulnerable marine resources; and migratory corridors* ... [regional ocean planning] ultimately is intended to result in protection of areas that are essential for the resiliency and maintenance of healthy ecosystem services and biological diversity, and to maximize the ability of marine resources to continue to support a wide variety of human uses.”[\[8\]](#) The *Marine Planning Handbook* (Handbook) notes that regions can “Identify high-value ecosystems and promote their sustainability.”[\[9\]](#) The Final Recommendations expressly call for the regional assessment to:

With assistance from scientific and technical experts ... investigate, assess, forecast, and analyze the following:

- Important physical and ecological patterns and processes (*e.g.*, basic habitat distributions and critical habitat functions) that occur in the planning area, including their response to changing conditions;
- The ecological condition and relative ecological importance or values of areas within the planning area, ***including identification of areas of particular ecological importance***, using regionally-developed evaluation and prioritization schemes that are consistent with national guidance provided by the NOC [National Ocean Council];
- The economic and environmental benefits and impacts of ocean, coastal, and Great Lakes uses in the region;
- The relationships and linkages within and among regional ecosystems, including neighboring regions both within and outside the planning area, and the impacts of anticipated human uses on those connections;
- The spatial distribution of, and conflicts and compatibilities among, current and emerging ocean uses in the area;
- Important ecosystem services in the planning area and their vulnerability or resilience to the effects of human uses, natural hazards, and global climate change;
- The contributions of existing place-based management measures and authorities; and
- Future requirements of existing and emerging ocean, coastal, and Great Lakes uses.[\[10\]](#)

Fortunately, the identification of a regional network of important ecological areas does not need to start from scratch; necessary data, proven methodology and free software programs already exist. The basic blueprint for systematically identifying a representative, resilient, and redundant network of important ecological areas can and has been used many times before,<sup>[11]</sup> including the Northwest Atlantic Marine Ecoregional Assessment (NAM ERA), an analysis to identify a portfolio of highly important marine areas from the Gulf of Maine to Cape Hatteras in North Carolina.<sup>[12]</sup> The ROA Work Group does not need to recreate the wheel, but can build off of existing data and methodology in the MARCO Data Portal and the science-driven, peer-reviewed NAM ERA effort.

## **II. The Plan should protect the ROA-identified network of important ecological areas.**

After the ROA identifies an ecological base layer, the Plan needs to put protections in place for the important ecological areas to safeguard them from threats that they face. The Plan should include a compatibility assessment that describes which activities can safely occur within and adjacent to these areas, and where and when, and should develop management measures to protect the important ecological areas from incompatible uses. The Plan should spell out the actions each of the RPB's agencies will take, using their existing authorities, to maximize ocean health. Plan Option B, which calls for a compatibility assessment, should be a component of this final Plan.<sup>[13]</sup> Ideally, the compatibility assessment would be included in the ROA itself, as it is a necessary analysis for the Plan options.

Protecting important ecological areas does not mean creating a network of no-take areas. The RPB should aim to protect important ecological areas from incompatible uses only. Where uses are compatible with the important ecological areas, they can occur in the same space. For example, diving, recreational fishing, and boating can be compatible with the protection of important benthic habitats. Should an impact on an important ecological area be unavoidable, the Plan needs to recommend management steps to best protect important ecological areas.

Identifying optimal places and times for activities, along with performance standards that minimize impacts to ocean resources and other users and identification of effective mitigation measures, similar to work undertaken in Rhode Island, Massachusetts, and Oregon, would provide useful guidance and increase effective and efficient decision-making for agencies carrying out their existing responsibilities. This information should be institutionalized beyond the Plan within the federal agencies memoranda and internal and external guidance, and the states' coastal zone management processes. The Final Recommendations state "... [the Plan should] describe the spatial determinations for conservation and uses, at the appropriate scale, and include any necessary visual representations. The ... Plan would describe the strategies, methods, and mechanisms for integrated or coordinated decision-making, including addressing use conflicts. [It] would further describe the continuing processes by which implementation would proceed, including mechanisms to ensure that individual partner and collaborative decision-making are reviewed for consistency with plan priorities and objectives."<sup>[14]</sup> The Handbook similarly notes "Marine plans ... [can] describe future desired conditions and provide information and guidance that support regional actions moving forward ... a marine plan should include:

A description of where and how the marine plan intersects with Federal agencies' existing authorities; A description of how the results of the marine plan will enhance coordination and promote consistency in Federal agencies' interpretation and application of existing laws and regulations ..."[15]

**III. The RPB should select a Plan option which will identify and protect important ecological areas for the entire Mid-Atlantic, not just a piece of the region.**

We believe that the RPB's Options D and E – as stated in the materials – come closest to allowing for achievement of the Healthy Ocean Ecosystem Goal, as described above. We agree with the RPB that Option A “may not result in sufficient improvement over the status quo” and, as mentioned previously, Option B should be part of the work done to complete Options C, D, or E.[16] Option E appears to be the only option that allows the RPB to signify the primary importance of certain areas for some uses, such as ecological protection, and then to protect these places from threats identified by the compatibility assessment. We do not believe that it is necessary to plan for all uses in this first iteration of the Plan, as envisioned by E; however, it is important to identify important ecological areas on a regional scale, in order to, for example, accommodate wide-ranging or migratory species. Option D seems to allow the RPB to focus on select issues where there is largely consensus, such as ecological protection and wind power development, and considers the development of guidance based on an assessment of areas.[17]

Our concerns with Option C are that it does not appear to include management guidance, as offered in Options D, and by reference, E, nor does it include Option E's embrace of optimal uses for areas. It reads as highly procedural in nature, with no assurance, for example, that important ecological areas will be identified in the plan and guidance provided on how they may be protected, utilizing current authorities. It is not clear how it deviates from the single-sector planning that currently takes place.

**IV. The RPB should adopt an ocean health index that serves as a baseline against which to measure the progress toward meeting the Healthy Ocean Ecosystem Goal.**

In addition to identifying and protecting a network of important ecological areas, the ROA Work Group should work with the science community to develop an ocean health index that allows regulators and the public to monitor success in securing the region's ocean health over time. The indicators for this work should be based on the same ecosystem components (*e.g.*, keystone species, important habitats) identified in the ROA. Specific, measurable, achievable, relevant and time-limited – or SMART – objectives should be developed based on these indicators and monitored to allow for a regular assessment of how well the Plan is achieving the Healthy Ocean Ecosystem Goal.[18]

Precedent exists for this work as well – for example, the Puget Sound Partnership identified indicators associated with the health of Puget Sound and developed SMART objectives that would implement its goal of a healthy ecosystem. One of Puget Sound's key components for ecosystem health is estuaries and the indicator used is the aerial extent of eelgrass beds; the



SMART objective tied to this indicator is to have a “20 percent increase in the area of eelgrass in Puget Sound relative to the 2000-2008 baseline reference by the year 2020.”<sup>[19]</sup> Reaching this goal shows that existing actions and activities are sustainable; whereas, falling short of this goal alerts managers that new actions are needed to restore and recover this key ecosystem component. Having measurable and meaningful objectives in a customized Mid-Atlantic ocean health index would allow for regular checkups on marine health and advise future Plan iterations.

#### **V. The Plan should focus on ocean health and sustainable uses.**

We support the Framework’s focus to provide for existing and future sustainable use.<sup>[20]</sup> The Mid-Atlantic region is a diverse region with many competing uses, but the MARCO members all share in an interest to “Promote the identification and protection of important ocean habitats, including sensitive and unique offshore areas;” “Collaborate on a regional approach to support the sustainable development of renewable energy in offshore areas;” and “Prepare Mid-Atlantic communities for the effects of climate change on coastal and ocean resources.”<sup>[21]</sup> The Plan should focus on these shared objectives, and not be used to consider offshore oil and gas exploration and development. Significant concerns about oil exploration and drilling impacts exist, given the recent BP oil spill, the lack of legislative reforms since that disaster, and the dependence of the Mid-Atlantic on ocean uses like recreation and tourism. While characterizing the extent of uses like oil and gas and other nonrenewable forms of energy may be part of the ROA, they should not be noted under “sustainable uses” and should not be part this Plan’s guidance, given the Framework’s overarching goals to provide for a Healthy Ocean Ecosystem and Sustainable Ocean Use.<sup>[22]</sup>

#### **VI. To review and advise the MidA RPB’s products, the RPB should develop a science engagement strategy.**

We would like to see the RPB establish a process for scientists and subjects matter experts<sup>[23]</sup> to provide feedback on the ROA, development of the network of important ecological areas, and SMART objectives. This could be an expert workgroup or a series of workshops, so long as the identified process is transparent and allows for substantive comments.

Additionally, the RPB should hold a science workshop to review methods for analyzing cumulative impacts on our ocean life. We need to know what threats – and in what combination – can cause significant change to our ecosystem so that we can prevent this from happening. The Final Recommendations call for analysis of cumulative impacts as one of the national guiding principles: “[Regional ocean planning] would use an ecosystem-based management approach that addresses cumulative effects to ensure the protection, integrity, maintenance, resilience, and restoration of ocean, coastal, and Great Lakes ecosystems, while promoting multiple sustainable uses.”<sup>[24]</sup>

## **VII. The MidA RPB should develop its Regional Ocean Action Plan by mid-2016.**

The Plan should solidify this new coordinated, ecosystem-based approach to ocean management and we hope to see it implemented as soon as possible. We greatly appreciate your commitment to development of a Plan by 2016 and urge you to move up the date for a first iteration of a Plan from late to mid-2016.<sup>[25]</sup> Developing the Plan by mid-2016 will allow the National Ocean Council to review and certify the Plan by the end of 2016.<sup>[26]</sup> Given that this current Administration created the process and participated in the RPB, we believe that Plan review and certification should occur prior to an Administration change.

### **Conclusion**

Only a healthy ocean can continue to provide the food, jobs, and recreation we want and need. The Final Recommendations note: “[Regional ocean planning] ultimately is intended to result in protection of areas that are essential for the resiliency and maintenance of healthy ecosystem services and biological diversity, and to maximize the ability of marine resources to continue to support a wide variety of human uses.”<sup>[27]</sup> Here in the Mid-Atlantic, our ocean resources support more than 670,000 jobs, with the tourism and recreation sector representing almost three-quarters of these.<sup>[28]</sup> According to a 2013-2014 study of coastal and ocean recreation in the Mid-Atlantic, over 91 percent of survey respondents participated in beach going in the last year and spent an average of \$71.06 per coastal visit.<sup>[29]</sup> In 2012, 2.3 million recreational anglers took 14 million fishing trips in the Mid-Atlantic region, generating nearly \$4 billion in total sales impacts, and Mid-Atlantic commercial fishermen landed over 750 million pounds of fish in 2012 and earned more than \$488 million for their catch.<sup>[30]</sup> These economic indicators only touch on the innumerable benefits that our ocean provides; many ecosystem services, such as storm surge protection, are often unaccounted for.

Yet, despite extensive ecological and economical value derived from offshore habitat within the region, there are virtually no habitat areas designated for year-round protection.<sup>[31]</sup> The RPB needs to rectify this situation by identifying a scientifically-developed ecological base layer and stating in the Plan various actions agencies should take with their existing authorities to protect these special ecological places. A healthy ocean is a prerequisite for sustainable uses: without ensuring the long-term health of the system, activities vital to our economy, like fishing, recreation, and tourism, which rely on these resources, will be at risk.

The RPB’s Plan can offer the promise of sustainable ocean health, through the designation and appropriate management of important ecological areas and the development of an ocean health index and monitoring program. Our organizations support this effort due to its commitment to improving ocean health and a desire to see real “on the water” improvements result from this work. We

appreciate the RPB's efforts and look forward to working with you as you continue to develop a final Plan to guide the region's ocean protection and sustainable use.

Sincerely,

Ali Chase

Policy Analyst

Natural Resources Defense Council

Matt Gove  
Mid-Atlantic Policy Manager  
Surfrider Foundation

Cindy Zipf  
Executive Director  
Clean Ocean Action

Sarah Winter Whelan  
Regional Marine Conservation Project Director  
American Littoral Society

Merry Camhi, PhD  
Director  
New York Seascape  
Wildlife Conservation Society

Eric Schwaab  
Senior VP/Chief Conservation Officer

National Aquarium

Adrienne Esposito  
Executive Director  
Citizens Campaign for the Environment

Pam Lyons Gromen  
Executive Director  
Wild Oceans

Arthur H. Kopelman, PhD  
President

Coastal Research and Education Society of Long Island

Phil Kline

Senior Ocean Campaigner

Greenpeace

Margo Pellegrino

Founder

Miami2Maine

Christine Santora  
Assistant Director for Policy and Outreach  
Institute for Ocean Conservation Science  
Stony Brook University

Eileen Levandoski  
Assistant Director  
Virginia Chapter Sierra Club

Michael Gravitz, Director  
Policy and Legislation  
Marine Conservation Institute

Bob Lewis  
Executive Director  
St. Mary's River Watershed Association

Michael Stocker  
Director  
Ocean Conservation Research

Mary M. Hamilton

Executive Director  
SandyHook SeaLife Foundation

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Alison Chase  
Policy Analyst  
Natural Resources Defense Council  
40 West 20th Street  
New York, NY 10011  
Phone: 212.727.4551  
Fax: 212.727.1773  
[achase@nrdc.org](mailto:achase@nrdc.org)

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[1] Framework at 6, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

[2] Available at <http://www.boem.gov/Environmental-Stewardship/Mid-Atlantic-Regional-Planning-Body/MidA-RPB-Materials.aspx>.

[3] We appreciate the RPB's ongoing efforts to encourage stakeholder and public engagement and believe that the Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement (Interim Plan) is headed in the right direction to increasing transparency and encouraging interested parties to participate in the planning process. We found much of the discussion in the Interim Plan to mirror many of the groups' July 15 comments on the Mid-Atlantic Regional Ocean Planning Stakeholder Engagement Strategy Draft Outline. We encourage you to continue to flesh this strategy out, with the July comments in mind. Available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

[4] Foley, M.M., et al. 2010. Guiding ecological principles for marine spatial planning. *Marine Policy* 34(5): 955-966. Available at <http://micheli.stanford.edu/pdf/18-Foleyetal2010MarPol.pdf>.

[5] Status of the Mid-Atlantic Regional Ocean Assessment at 3, available at: <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

[6] Final Recommendations at 59, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

[7] Tear, T.H., et al. 2005. How much is enough? The recurrent problem of setting measurable objectives in conservation. *Bioscience* 55(10): 835-849. Available at [http://www.estuarypartnership.org/sites/default/files/resource\\_files/Tear%20et%20al%202005%20-%20How%20much%20is%20enough.pdf](http://www.estuarypartnership.org/sites/default/files/resource_files/Tear%20et%20al%202005%20-%20How%20much%20is%20enough.pdf); Gaines, S.D., et al. 2010. Designing marine reserve networks for both conservation and fisheries management. *Proceedings of the National Academy of Sciences* 107(43): 18286-18293. Available at <http://www.pnas.org/content/107/43/18286.full>.

[8] Final Recommendations of the Interagency Ocean Policy Task Force at 44, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). Emphasis added.

[9] Marine Planning Handbook at 15, available at [http://www.whitehouse.gov/sites/default/files/final\\_marine\\_planning\\_handbook.pdf](http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf).

[10] Final Recommendations at 57, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). Emphasis added.

[11] Margules, C.R. and Pressey, R.L. 2000. Systematic conservation planning. *Nature* 405: 243-253 at <http://www.nature.com/nature/journal/v405/n6783/full/405243a0.html>.; Margules, C.R. and Sarkar, S. 2007. *Systematic Conservation Planning*. New York: Cambridge University Press.

[12] NAM ERA followed the methodology described above and could be used to advise the Mid-Atlantic process. It should not be used as is, since the scale at which The Nature Conservancy conducted its work was larger than what is needed here and climate change impacts need to be incorporated. Greene, J.K., M.G. Anderson, J. Odell, and N. Steinberg, eds. 2010. *The Northwest Atlantic Marine Ecoregional Assessment: Species, Habitats and Ecosystems. Phase One*. The Nature Conservancy, Eastern U.S. Division, Boston, MA. Available at <https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/reportsdata/marine/namera/Pages/default.aspx>.

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[Message clipped]

**American Littoral Society • Citizens Campaign for the Environment • Clean Ocean Action •  
Coastal Research and Education Society of Long Island • Greenpeace •  
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National Aquarium • Natural Resources Defense Council •  
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November 20, 2014

**Mid-Atlantic Regional Planning Body Co-Leads:**

Mr. Robert LaBelle  
Senior Advisor to the Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Ms. Kelsey Leonard  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

Ms. Gwynne Schultz  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

*Submitted electronically*

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1. Call on the Regional Ocean Assessment Work Group (ROA Work Group) to partner with the science community to identify a network of important ecological areas for the Mid-Atlantic region;



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3. Adopt an ocean health index developed by the ROA Work Group and the science community that serves as a baseline against which to measure progress toward achieving our overall goal of ecosystem health for the Mid-Atlantic region.

Only by achieving this work will the RPB succeed in attaining the *Mid-Atlantic Regional Ocean Planning Framework's* (Framework) guiding Healthy Ocean Ecosystem Goal to “Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration.”<sup>1</sup>

We offer the recommendations below on the draft Plan materials,<sup>2</sup> building on the ideas that many of our organizations shared at the listening sessions, and look forward to further dialogue on these important decisions at the upcoming January RPB meeting.<sup>3</sup>

#### **I. The Regional Ocean Assessment should identify a representative network of important ecological areas.**

We are concerned that the current Regional Ocean Assessment (ROA) outline falls short of providing the analysis necessary for the RPB to structure a Plan that can achieve the Framework's Healthy Ocean Ecosystem Goal. Healthy, functioning marine ecosystems satisfy four principles by maintaining or restoring: 1) native species diversity, 2) habitat diversity and heterogeneity, 3) populations of key species, and 4) connectivity.<sup>4</sup> The ROA should include descriptions of each of these four attributes and note what the acceptable condition should be to achieve sustainable ocean health.

Currently, the ROA outline omits the criteria used to select the species and habitats included, nor any discussion of why certain taxa were excluded (*e.g.*, bat species and elasmobranchs). In the outline template, while the current status and trends for each species/habitat will be reported, there is no indication that this includes the biological and ecological condition of the resources nor does it appear that the ROA would report on an “acceptable status,” which is necessary for the Plan to know where restoration or additional protection is needed to secure the continued functioning of the system. Additionally, we are confused as to why ecosystem-based management is noted as a topic under Section I, as opposed to the guiding process that has driven this entire effort.<sup>5</sup> We also note that the ROA outline contains no discussion of cumulative impacts to important species and habitats, again a critical component of the ROA to ensure that the Plan is designed to avoid additional significant impacts.

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<sup>1</sup> Framework at 6, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

<sup>2</sup> Available at <http://www.boem.gov/Environmental-Stewardship/Mid-Atlantic-Regional-Planning-Body/MidA-RPB-Materials.aspx>.

<sup>3</sup> We appreciate the RPB's ongoing efforts to encourage stakeholder and public engagement and believe that the Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement (Interim Plan) is headed in the right direction to increasing transparency and encouraging interested parties to participate in the planning process. We found much of the discussion in the Interim Plan to mirror many of the groups' July 15 comments on the Mid-Atlantic Regional Ocean Planning Stakeholder Engagement Strategy Draft Outline. We encourage you to continue to flesh this strategy out, with the July comments in mind. Available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

<sup>4</sup> Foley, M.M., et al. 2010. Guiding ecological principles for marine spatial planning. *Marine Policy* 34(5): 955-966. Available at <http://micheli.stanford.edu/pdf/18-Foleyetal2010MarPol.pdf>.

<sup>5</sup> Status of the Mid-Atlantic Regional Ocean Assessment at 3, available at: <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

Perhaps most concerning of all, the ROA outline is silent on the identification of important ecological areas. The *Final Recommendations of the Interagency Ocean Policy Task Force* (Final Recommendations) offers important guidance: “The regional assessment would include: relevant biological, chemical, ecological, physical, cultural, and historical characteristics of the planning area; ecologically important or sensitive species/habitats/ecosystems; and areas of human activities. The assessment would also include an analysis of ecological condition or health and of cumulative risks as well as forecasts and models of cumulative impacts.”<sup>6</sup>

We recommend that the ROA Work Group, together with the science community, identify a network of important ecological areas that adequately connects important habitats, populations and ecological processes. To safeguard marine biodiversity, it is important to identify a network of places that is:

- *Representative* of the area, including some proportion of every marine habitat type and/or species;
- *Resilient* to disturbances, of a size and configuration that natural and human-caused damage to some areas can be absorbed without jeopardizing the integrity of the network;
- *Redundant*, with more than one location of each biodiversity element presented to allow a margin of safety; and
- *Connected*, so that discrete important areas are linked in a way to preserve important ecological processes and populations.<sup>7</sup>

Work is also needed to identify how threats, like pollution, habitat destruction, and climate change, are impacting the health of these key ecological species and habitats so we know how much area needs to be part of the network in order for it to be resilient. This network, if protected, would help ensure continued functioning of our ocean ecosystem and the many uses that rely on it.

Essentially, just as the Mid-Atlantic Regional Council on the Ocean (MARCO) Data Portal includes base layers for all different kinds of uses from shipping to wind energy, we need the ROA Work Group to work with the science community to analyze the existing natural resources data strands and recommend an ecological base layer that conveys where the most important places are for ecological functioning.

Regional ocean planning requires this work. The Final Recommendations state regional ocean planning should “improve ecosystem health and services by planning human uses in concert with the *conservation of important ecological areas, such as areas of high productivity and biological diversity; areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding, and feeding; areas of rare or functionally vulnerable marine resources; and migratory corridors* ... [regional ocean planning] ultimately is intended to result in protection of areas that are essential for the resiliency and maintenance of healthy ecosystem services and biological diversity, and to maximize the ability of marine

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<sup>6</sup> Final Recommendations at 59, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>7</sup> Tear, T.H., et al. 2005. How much is enough? The recurrent problem of setting measurable objectives in conservation. *Bioscience* 55(10): 835-849. Available at [http://www.estuarypartnership.org/sites/default/files/resource\\_files/Tear%20et%20al%202005%20-%20How%20much%20is%20enough.pdf](http://www.estuarypartnership.org/sites/default/files/resource_files/Tear%20et%20al%202005%20-%20How%20much%20is%20enough.pdf).; Gaines, S.D., et al. 2010. Designing marine reserve networks for both conservation and fisheries management. *Proceedings of the National Academy of Sciences* 107(43): 18286-18293. Available at <http://www.pnas.org/content/107/43/18286.full>.

resources to continue to support a wide variety of human uses.”<sup>8</sup> The *Marine Planning Handbook* (Handbook) notes that regions can “Identify high-value ecosystems and promote their sustainability.”<sup>9</sup> The Final Recommendations expressly call for the regional assessment to:

With assistance from scientific and technical experts ... investigate, assess, forecast, and analyze the following:

- Important physical and ecological patterns and processes (*e.g.*, basic habitat distributions and critical habitat functions) that occur in the planning area, including their response to changing conditions;
- The ecological condition and relative ecological importance or values of areas within the planning area, ***including identification of areas of particular ecological importance***, using regionally-developed evaluation and prioritization schemes that are consistent with national guidance provided by the NOC [National Ocean Council];
- The economic and environmental benefits and impacts of ocean, coastal, and Great Lakes uses in the region;
- The relationships and linkages within and among regional ecosystems, including neighboring regions both within and outside the planning area, and the impacts of anticipated human uses on those connections;
- The spatial distribution of, and conflicts and compatibilities among, current and emerging ocean uses in the area;
- Important ecosystem services in the planning area and their vulnerability or resilience to the effects of human uses, natural hazards, and global climate change;
- The contributions of existing place-based management measures and authorities; and
- Future requirements of existing and emerging ocean, coastal, and Great Lakes uses.<sup>10</sup>

Fortunately, the identification of a regional network of important ecological areas does not need to start from scratch; necessary data, proven methodology and free software programs already exist. The basic blueprint for systematically identifying a representative, resilient, and redundant network of important ecological areas can and has been used many times before,<sup>11</sup> including the Northwest Atlantic Marine Ecoregional Assessment (NAM ERA), an analysis to identify a portfolio of highly important marine areas

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<sup>8</sup> Final Recommendations of the Interagency Ocean Policy Task Force at 44, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). Emphasis added.

<sup>9</sup> Marine Planning Handbook at 15, available at [http://www.whitehouse.gov/sites/default/files/final\\_marine\\_planning\\_handbook.pdf](http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf).

<sup>10</sup> Final Recommendations at 57, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). Emphasis added.

<sup>11</sup> Margules, C.R. and Pressey, R.L. 2000. Systematic conservation planning. *Nature* 405: 243-253 at <http://www.nature.com/nature/journal/v405/n6783/full/405243a0.html>.; Margules, C.R. and Sarkar, S. 2007. Systematic Conservation Planning. New York: Cambridge University Press.

from the Gulf of Maine to Cape Hatteras in North Carolina.<sup>12</sup> The ROA Work Group does not need to recreate the wheel, but can build off of existing data and methodology in the MARCO Data Portal and the science-driven, peer-reviewed NAM ERA effort.

## **II. The Plan should protect the ROA-identified network of important ecological areas.**

After the ROA identifies an ecological base layer, the Plan needs to put protections in place for the important ecological areas to safeguard them from threats that they face. The Plan should include a compatibility assessment that describes which activities can safely occur within and adjacent to these areas, and where and when, and should develop management measures to protect the important ecological areas from incompatible uses. The Plan should spell out the actions each of the RPB's agencies will take, using their existing authorities, to maximize ocean health. Plan Option B, which calls for a compatibility assessment, should be a component of this final Plan.<sup>13</sup> Ideally, the compatibility assessment would be included in the ROA itself, as it is a necessary analysis for the Plan options.

Protecting important ecological areas does not mean creating a network of no-take areas. The RPB should aim to protect important ecological areas from incompatible uses only. Where uses are compatible with the important ecological areas, they can occur in the same space. For example, diving, recreational fishing, and boating can be compatible with the protection of important benthic habitats. Should an impact on an important ecological area be unavoidable, the Plan needs to recommend management steps to best protect important ecological areas.

Identifying optimal places and times for activities, along with performance standards that minimize impacts to ocean resources and other users and identification of effective mitigation measures, similar to work undertaken in Rhode Island, Massachusetts, and Oregon, would provide useful guidance and increase effective and efficient decision-making for agencies carrying out their existing responsibilities. This information should be institutionalized beyond the Plan within the federal agencies memoranda and internal and external guidance, and the states' coastal zone management processes. The Final Recommendations state "... [the Plan should] describe the spatial determinations for conservation and uses, at the appropriate scale, and include any necessary visual representations. The ... Plan would describe the strategies, methods, and mechanisms for integrated or coordinated decision-making, including addressing use conflicts. [It] would further describe the continuing processes by which implementation would proceed, including mechanisms to ensure that individual partner and collaborative decision-making are reviewed for consistency with plan priorities and objectives."<sup>14</sup> The Handbook similarly notes "Marine plans ... [can] describe future desired conditions and provide information and guidance that support regional actions moving forward ... a marine plan should include: A description of where and how the marine plan intersects with Federal agencies' existing authorities; A description of

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<sup>12</sup> NAM ERA followed the methodology described above and could be used to advise the Mid-Atlantic process. It should not be used as is, since the scale at which The Nature Conservancy conducted its work was larger than what is needed here and climate change impacts need to be incorporated. Greene, J.K., M.G. Anderson, J. Odell, and N. Steinberg, eds. 2010. *The Northwest Atlantic Marine Ecoregional Assessment: Species, Habitats and Ecosystems. Phase One.* The Nature Conservancy, Eastern U.S. Division, Boston, MA. Available at <https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/edc/reportsdata/marine/namera/Pages/default.aspx>.

<sup>13</sup> Mid-Atlantic Regional Ocean Action Plan Options at 2-3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>14</sup> Final Recommendations at 59, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

how the results of the marine plan will enhance coordination and promote consistency in Federal agencies' interpretation and application of existing laws and regulations ...”<sup>15</sup>

### **III. The RPB should select a Plan option which will identify and protect important ecological areas for the entire Mid-Atlantic, not just a piece of the region.**

We believe that the RPB's Options D and E – as stated in the materials – come closest to allowing for achievement of the Healthy Ocean Ecosystem Goal, as described above. We agree with the RPB that Option A “may not result in sufficient improvement over the status quo” and, as mentioned previously, Option B should be part of the work done to complete Options C, D, or E.<sup>16</sup> Option E appears to be the only option that allows the RPB to signify the primary importance of certain areas for some uses, such as ecological protection, and then to protect these places from threats identified by the compatibility assessment. We do not believe that it is necessary to plan for all uses in this first iteration of the Plan, as envisioned by E; however, it is important to identify important ecological areas on a regional scale, in order to, for example, accommodate wide-ranging or migratory species. Option D seems to allow the RPB to focus on select issues where there is largely consensus, such as ecological protection and wind power development, and considers the development of guidance based on an assessment of areas.<sup>17</sup>

Our concerns with Option C are that it does not appear to include management guidance, as offered in Options D, and by reference, E, nor does it include Option E's embrace of optimal uses for areas. It reads as highly procedural in nature, with no assurance, for example, that important ecological areas will be identified in the plan and guidance provided on how they may be protected, utilizing current authorities. It is not clear how it deviates from the single-sector planning that currently takes place.

### **IV. The RPB should adopt an ocean health index that serves as a baseline against which to measure the progress toward meeting the Healthy Ocean Ecosystem Goal.**

In addition to identifying and protecting a network of important ecological areas, the ROA Work Group should work with the science community to develop an ocean health index that allows regulators and the public to monitor success in securing the region's ocean health over time. The indicators for this work should be based on the same ecosystem components (*e.g.*, keystone species, important habitats) identified in the ROA. Specific, measurable, achievable, relevant and time-limited – or SMART – objectives should be developed based on these indicators and monitored to allow for a regular assessment of how well the Plan is achieving the Healthy Ocean Ecosystem Goal.<sup>18</sup>

Precedent exists for this work as well – for example, the Puget Sound Partnership identified indicators associated with the health of Puget Sound and developed SMART objectives that would implement its

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<sup>15</sup> Marine Planning Handbook at 12-13, available at

[http://www.whitehouse.gov/sites/default/files/final\\_marine\\_planning\\_handbook.pdf](http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf).

<sup>16</sup> Mid-Atlantic Regional Ocean Action Plan Options at 2-3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>17</sup> Mid-Atlantic Regional Ocean Action Plan Options at 3-5, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>18</sup> For further instruction in this approach, see Kershner, J., Samhour, J.F., James, C.A. and Levin, P.S. 2011. Selecting Indicator Portfolios for Marine Species and Food Webs: A Puget Sound Case Study. *PLoS ONE* 6(10): e25248. Available at <http://www.plosone.org/article/info:doi/10.1371/journal.pone.0025248>; Ehler, Charles; A Guide to Evaluating Marine Spatial Plans, Paris, UNESCO, 2014. *IOC Manuals and Guides*, 70; ICAM Dossier 8. Available at <http://unesdoc.unesco.org/images/0022/002277/227779e.pdf>.

goal of a healthy ecosystem. One of Puget Sound’s key components for ecosystem health is estuaries and the indicator used is the aerial extent of eelgrass beds; the SMART objective tied to this indicator is to have a “20 percent increase in the area of eelgrass in Puget Sound relative to the 2000-2008 baseline reference by the year 2020.”<sup>19</sup> Reaching this goal shows that existing actions and activities are sustainable; whereas, falling short of this goal alerts managers that new actions are needed to restore and recover this key ecosystem component. Having measurable and meaningful objectives in a customized Mid-Atlantic ocean health index would allow for regular checkups on marine health and advise future Plan iterations.

#### **V. The Plan should focus on ocean health and sustainable uses.**

We support the Framework’s focus to provide for existing and future sustainable use.<sup>20</sup> The Mid-Atlantic region is a diverse region with many competing uses, but the MARCO members all share in an interest to “Promote the identification and protection of important ocean habitats, including sensitive and unique offshore areas;” “Collaborate on a regional approach to support the sustainable development of renewable energy in offshore areas;” and “Prepare Mid-Atlantic communities for the effects of climate change on coastal and ocean resources.”<sup>21</sup> The Plan should focus on these shared objectives, and not be used to consider offshore oil and gas exploration and development. Significant concerns about oil exploration and drilling impacts exist, given the recent BP oil spill, the lack of legislative reforms since that disaster, and the dependence of the Mid-Atlantic on ocean uses like recreation and tourism. While characterizing the extent of uses like oil and gas and other nonrenewable forms of energy may be part of the ROA, they should not be noted under “sustainable uses” and should not be part this Plan’s guidance, given the Framework’s overarching goals to provide for a Healthy Ocean Ecosystem and Sustainable Ocean Use.<sup>22</sup>

#### **VI. To review and advise the MidA RPB’s products, the RPB should develop a science engagement strategy.**

We would like to see the RPB establish a process for scientists and subject matter experts<sup>23</sup> to provide feedback on the ROA, development of the network of important ecological areas, and SMART objectives. This could be an expert workgroup or a series of workshops, so long as the identified process is transparent and allows for substantive comments.

Additionally, the RPB should hold a science workshop to review methods for analyzing cumulative impacts on our ocean life. We need to know what threats – and in what combination – can cause significant change to our ecosystem so that we can prevent this from happening. The Final Recommendations call for analysis of cumulative impacts as one of the national guiding principles:

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<sup>19</sup> See Puget Sound Partnership Vital Signs at <http://www.psp.wa.gov/vitalsigns/eelgrass.php>.

<sup>20</sup> Framework at 7-8, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

<sup>21</sup> Mid-Atlantic Regional Council on the Ocean Proposed Products and Services for use by the Mid-Atlantic Regional Planning Body at 1, available at [http://www.boem.gov/Environmental-Stewardship/Mid-Atlantic-Regional-Planning-Body/3\\_-MARCO-Products-and-Services-9-16-13.aspx](http://www.boem.gov/Environmental-Stewardship/Mid-Atlantic-Regional-Planning-Body/3_-MARCO-Products-and-Services-9-16-13.aspx).

<sup>22</sup> Status of the Mid-Atlantic Regional Ocean Assessment at 5, available at: <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>; Framework at 6-7, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

<sup>23</sup> As previously noted, our organizations believe that some form of science advisory panel comprised of academics and subject matter experts should be established to provide feedback on the ROA and other work products. See, for example, the letters several of our organizations submitted to the MidA RPB on September 4, 2013, November 4, 2013, February 12, 2014, and June 23, 2014.

“[Regional ocean planning] would use an ecosystem-based management approach that addresses cumulative effects to ensure the protection, integrity, maintenance, resilience, and restoration of ocean, coastal, and Great Lakes ecosystems, while promoting multiple sustainable uses.”<sup>24</sup>

## VII. The MidA RPB should develop its Regional Ocean Action Plan by mid-2016.

The Plan should solidify this new coordinated, ecosystem-based approach to ocean management and we hope to see it implemented as soon as possible. We greatly appreciate your commitment to development of a Plan by 2016 and urge you to move up the date for a first iteration of a Plan from late to mid-2016.<sup>25</sup> Developing the Plan by mid-2016 will allow the National Ocean Council to review and certify the Plan by the end of 2016.<sup>26</sup> Given that this current Administration created the process and participated in the RPB, we believe that Plan review and certification should occur prior to an Administration change.

### Conclusion

Only a healthy ocean can continue to provide the food, jobs, and recreation we want and need. The Final Recommendations note: “[Regional ocean planning] ultimately is intended to result in protection of areas that are essential for the resiliency and maintenance of healthy ecosystem services and biological diversity, and to maximize the ability of marine resources to continue to support a wide variety of human uses.”<sup>27</sup> Here in the Mid-Atlantic, our ocean resources support more than 670,000 jobs, with the tourism and recreation sector representing almost three-quarters of these.<sup>28</sup> According to a 2013-2014 study of coastal and ocean recreation in the Mid-Atlantic, over 91 percent of survey respondents participated in beach going in the last year and spent an average of \$71.06 per coastal visit.<sup>29</sup> In 2012, 2.3 million recreational anglers took 14 million fishing trips in the Mid-Atlantic region, generating nearly \$4 billion in total sales impacts, and Mid-Atlantic commercial fishermen landed over 750 million pounds of fish in 2012 and earned more than \$488 million for their catch.<sup>30</sup> These economic indicators only touch on the innumerable benefits that our ocean provides; many ecosystem services, such as storm surge protection, are often unaccounted for.

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<sup>24</sup> Final Recommendations at 48, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). See, also, at 15-16, “Policies, programs, and activities of the United States should be managed and conducted in a manner that seeks to prevent or minimize adverse environmental impacts to the ocean, our coasts, and the Great Lakes ecosystems and resources, including cumulative impacts, and to ensure and improve their integrity” and at 59 “The . . . Plan would include a regional assessment, based on environmental, social, economic, and other necessary data and knowledge, describing the existing and predicted future conditions, uses, and characteristics of the ocean, coastal, or Great Lakes areas covered in the CMS Plan. The regional assessment would include: relevant biological, chemical, ecological, physical, cultural, and historical characteristics of the planning area; ecologically important or sensitive species/habitats/ecosystems; and areas of human activities. *The assessment would also include an analysis of ecological condition or health and of cumulative risks as well as forecasts and models of cumulative impacts.* The regional assessment would explain the information obtained and analyses conducted during the planning process and how they were used to help determine management decisions and plan alternatives.” Emphasis added.

<sup>25</sup> Mid-Atlantic Regional Planning Body (MidA RPB) Webinar: Review of Draft MidA RPB Documents at slide 8, available at <http://www.boem.gov/MidA-RPB-Oct-29-Webinar-Slides/>.

<sup>26</sup> Final Recommendations at 63-64, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>27</sup> Final Recommendations at 44, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>28</sup> National Oceanic and Atmospheric Administration. Economics: National Ocean Watch. Mid-Atlantic, 2011. Available at <http://www.csc.noaa.gov/ENOWDataWizard/index.jsp?RegionList=-4&vYears=2011>. Please note that employment numbers and percentage of jobs due to tourism and recreation and living resources would be higher if the data accounted for the self-employed. Jobs numbers include part-time and seasonal employees.

<sup>29</sup> Surfrider Foundation. 2014. U.S. Mid Atlantic Coastal and Ocean Recreation Study. Available at [surfrider.org/pages/6230](http://surfrider.org/pages/6230).

<sup>30</sup> National Marine Fisheries Service. 2014. *Fisheries Economics of the United States, 2012*. U.S. Department of Commerce, NOAA. Available at [http://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries\\_economics\\_2012](http://www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2012). Please note that the results from this survey cannot be directly compared to the ENOW data; the analyses use different data and models. Please note that the NMFS report includes self-employed fishermen.

Yet, despite extensive ecological and economical value derived from offshore habitat within the region, there are virtually no habitat areas designated for year-round protection.<sup>31</sup> The RPB needs to rectify this situation by identifying a scientifically-developed ecological base layer and stating in the Plan various actions agencies should take with their existing authorities to protect these special ecological places. A healthy ocean is a prerequisite for sustainable uses: without ensuring the long-term health of the system, activities vital to our economy, like fishing, recreation, and tourism, which rely on these resources, will be at risk.

The RPB's Plan can offer the promise of sustainable ocean health, through the designation and appropriate management of important ecological areas and the development of an ocean health index and monitoring program. Our organizations support this effort due to its commitment to improving ocean health and a desire to see real "on the water" improvements result from this work. We appreciate the RPB's efforts and look forward to working with you as you continue to develop a final Plan to guide the region's ocean protection and sustainable use.

Sincerely,

Ali Chase  
Policy Analyst  
Natural Resources Defense Council

Matt Gove  
Mid-Atlantic Policy Manager  
Surfrider Foundation

Cindy Zipf  
Executive Director  
Clean Ocean Action

Sarah Winter Whelan  
Regional Marine Conservation Project Director  
American Littoral Society

Merry Camhi, PhD  
Director  
New York Seascape  
Wildlife Conservation Society

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<sup>31</sup> Chasis, S. and C. Bower. 2013. Legal Mechanisms and Opportunities to Advance Ocean Habitat Protection in the Mid-Atlantic. *Sea Grant Law and Policy Journal*, Vol. 6, No. 1. Available at <http://nsglc.olemiss.edu/sglpj/vol6no1/7-Chasis.pdf>.



Eric Schwaab  
Senior VP/Chief Conservation Officer  
National Aquarium

Adrienne Esposito  
Executive Director  
Citizens Campaign for the Environment

Pam Lyons Gromen  
Executive Director  
Wild Oceans

Arthur H. Kopelman, PhD  
President  
Coastal Research and Education Society of Long Island

Phil Kline  
Senior Ocean Campaigner  
Greenpeace

Margo Pellegrino  
Founder  
Miami2Maine

Christine Santora  
Assistant Director for Policy and Outreach  
Institute for Ocean Conservation Science  
Stony Brook University

Eileen Levandoski  
Assistant Director  
Virginia Chapter Sierra Club

Michael Gravitz, Director  
Policy and Legislation  
Marine Conservation Institute

Bob Lewis  
Executive Director  
St. Mary's River Watershed Association

Michael Stocker  
Director  
Ocean Conservation Research

Mary M. Hamilton  
Executive Director  
SandyHook SeaLife Foundation

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Fri, Nov 21, 2014 at 7:41 AM  
Subject: Re: Comments on MidA Ocean Plan Options, ROA, and Stakeholder Engagement  
To: [brent.greenfield@oceanpolicy.com](mailto:brent.greenfield@oceanpolicy.com)

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Thu, Nov 20, 2014 at 4:57 PM, <[brent.greenfield@oceanpolicy.com](mailto:brent.greenfield@oceanpolicy.com)> wrote:  
Attached please find a National Ocean Policy Coalition comment letter on the Mid-Atlantic Regional Ocean Action Plan options, proposed content and structure of a Mid-Atlantic Regional Ocean Assessment, and tools and methods to consider for longer-term stakeholder engagement.

Please contact me at (713) 337-8821 or [brent.greenfield@oceanpolicy.com](mailto:brent.greenfield@oceanpolicy.com) if you have any questions.

Sincerely,  
Brent

Brent Greenfield  
Executive Director  
National Ocean Policy Coalition  
(713) 337-8821 (o)  
(866) 273-8998 (f)  
[www.oceanpolicy.com](http://www.oceanpolicy.com)



November 20, 2014

Mr. Robert LaBelle  
Mid-Atlantic Regional Planning Body Federal Co-Lead  
Bureau of Ocean Energy Management  
381 Elden Street, MS-3127  
Herndon, VA 20170

Ms. Gwynne Schultz  
Mid-Atlantic Regional Planning Body State Co-Lead  
Maryland Department of Natural Resources  
580 Taylor Avenue  
Annapolis, MD 21401

Ms. Kelsey Leonard  
Mid-Atlantic Regional Planning Body Tribal Co-Lead  
Shinnecock Indian Nation  
PO Box 5006  
Southampton, NY 11969

*Submitted Electronically via [MidAtlanticRPB@boem.gov](mailto:MidAtlanticRPB@boem.gov)*

**RE: Comments on Mid-Atlantic Regional Ocean Action Plan Options, Status of the Mid-Atlantic Regional Ocean Assessment, and Interim Plan for Stakeholder Engagement**

Dear Mr. LaBelle, Ms. Schultz, and Ms. Leonard:

The National Ocean Policy Coalition (“Coalition”) is pleased to submit comments on the Mid-Atlantic Regional Planning Body’s (“RPB”) Mid-Atlantic Regional Ocean Action Plan Options, Status of the Mid-Atlantic Regional Ocean Assessment, and Interim Plan for Stakeholder Engagement.

The Coalition is an organization of diverse interests representing sectors and entities that support tens of millions of jobs, contribute trillions of dollars to the U.S. economy, and seek to ensure that actions under the National Ocean Policy are implemented in a manner that best benefits the National interest, including protection of the commercial and recreational value of the oceans, marine-related natural resources, and terrestrial lands of the United States.

**INTRODUCTION**

Ocean and coastal policies play a critical role in our national, regional, and local economies, national security, culture, health, and well-being. The Coalition supports ocean and coastal policies that serve as mechanisms for job creation, infrastructure revitalization, and economic growth; conserve the natural resources and marine habitat of our ocean and coastal regions; and rely on full utilization of existing processes and programs and well-established authorities that are already in place.

The RPB announced on October 24, 2014 that it was seeking comments by November 20, 2014 on options for a Mid-Atlantic Regional Ocean Action Plan, the proposed content and structure of a Mid-

Atlantic Regional Ocean Assessment, and tools and methods to consider for longer-term stakeholder engagement.

At the outset, the Coalition is disappointed with the 27-day timeline associated with this comment period. As the Coalition noted in its comments on the draft Regional Ocean Planning Framework,<sup>1</sup> RPB decisions related to items such as the development of a regional ocean assessment and a regional ocean plan must be subject to formal and meaningful engagement in a manner that provides sufficient opportunities to develop priorities and objectives in partnership with, and based on the input, advice, and consensus of, the region's existing and potential commercial and recreational interests.

In addition to the broader engagement deficiencies that remain and are further outlined below, a comment period of less than four weeks is insufficient for stakeholders to review, discuss, develop, evaluate, and refine comments on potentially significant policy documents, and it significantly reduces the likelihood of a thoughtful and well-informed outcome.

The comments herein address the draft materials released for public review on October 24 and the need for the RPB to:

- Rather than seek and prescribe agency implementation commitments, conduct its activities in an advisory and non-binding manner by providing data and information for voluntary use as agencies see fit
- Commit to recognizing and accommodating all existing and foreseeable potential future uses in a non-discriminatory manner
- Account for limits in the ability of maps and forecasting/modeling tools to account for variations in conditions and reflect differences among particular activities/users, and clearly, accurately, and comprehensively communicate the purpose and methodology for and under which any maps are proposed to be developed
- Provide clear guidance and protocols that apply to data collection and use
- Publicly outline in detail all potential projected costs and funding sources associated with all proposed options under consideration
- Prior to deliberating and deciding on the contours of a Mid-Atlantic ocean plan, establish formal and meaningful stakeholder advisory mechanisms and strategies, as well as develop and finalize a comprehensive ocean assessment
- Refrain from pursuing ocean plan options involving an issue-triggered coordination process, compatibility assessment, targeted coordination by issue or geography, compatible use areas, or comprehensive optimal use maps
- In compiling data and information for a Mid-Atlantic ocean assessment, simultaneously address all environmental and existing and future potential economic uses and resources
- Exclude ecosystem-based management and related ecosystem-based topics from consideration for inclusion in the Regional Ocean Assessment
- Provide opportunities for input on Regional Ocean Assessment content through a printed document, as well as through any other mechanisms under which the RPB or regulatory agencies may utilize the Assessment, including any data portals or web platforms
- Regularly seek public comment on whether the Regional Ocean Assessment is in need of an update to account for new data or information

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<sup>1</sup> See April 15, 2014 National Ocean Policy Coalition Comments on Mid-Atlantic Regional Planning Body's Draft Regional Ocean Planning Framework, available at [http://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/NOPC\\_Comments\\_on\\_MidA\\_RPB\\_Draft\\_Framework.pdf](http://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/NOPC_Comments_on_MidA_RPB_Draft_Framework.pdf).

## Regulatory Implications

As the Coalition noted in comments earlier this year, a primary driver of concerns regarding regional ocean planning efforts under the National Ocean Policy/RPB construct is the fact that, pursuant to the foundational National Ocean Policy documents, RPB products including marine plans are to be implemented by federal agencies to the maximum extent, including through regulations where necessary.<sup>2</sup> Language included in the RPB's Charter, Regional Ocean Planning Framework, and draft Mid-Atlantic Regional Ocean Action Plan Options document underscores the directive that agencies apply and incorporate RPB products into their decision-making activities.<sup>3</sup>

Thus, while the Mid-Atlantic Regional Ocean Action Plan Options document notes that under the National Ocean Policy "regional planning bodies are not regulatory bodies and have no independent legal authority to regulate or otherwise direct Federal, State, Tribal, or local government actions" and "all activities will continue to be regulated under existing authorities,"<sup>4</sup> its actions may have far-reaching consequences in part by serving as precursors to regulatory activity through the requirement that federal entities implement and ensure their consistency with RPB products. The inherent potential for uncertainty, confusion, delay, and adverse impacts likely to result from this non-statutorily based process underscores the critical need to reduce the likelihood of such an outcome.

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<sup>2</sup> See Executive Order for Stewardship of the Ocean, Our Coasts, and the Great Lakes, July 19, 2010, available at <http://www.whitehouse.gov/files/documents/2010stewardship-EO.pdf>, Section 6 ("All executive departments, agencies, and offices that are members of the [National Ocean] Council and any other executive department, agency, or office whose actions affect the ocean, our coasts, and the Great Lakes shall, to the fullest extent consistent with applicable law...[p]articipate in the process for coastal and marine spatial planning and comply with Council certified coastal and marine spatial plans, as described in the Final Recommendations and subsequent guidance from the Council."); Final Recommendations of the Interagency Ocean Policy Task Force, July 19, 2010, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf), Pages 47, ("Where pre-existing legal constraints, either procedural or substantive, are identified for any Federal agency, the NOC would work with the agency to evaluate necessary and appropriate legislative solutions or changes to regulations to address the constraints. In the interim, agencies would comply with existing legal requirements but should endeavor, to the maximum extent possible, to integrate their actions with those of other partners to a CMS Plan."); 61-62 ("...State and Federal regulatory authorities would adhere to, for example, the processes for improved and more efficient permitting, environmental reviews, and other decision-making identified in the CMS [Coastal and Marine Spatial] Plan to the extent these actions do not conflict with existing legal obligations. State and Federal authorities with programs relevant to the CMS Plan would in a timely manner review and modify programs, as appropriate, to ensure their respective activities, including discretionary spending (e.g., grants and cooperative agreements), adhere to the CMS Plan to the extent possible. State and Federal agencies would also be expected to formally incorporate relevant components of the CMS Plan into their ongoing operations or activities consistent with existing law. This may be implemented in a variety of ways. For example, agencies could enter into memoranda of understanding (MOUs) to coordinate or unify permit reviews and decision-making processes. Where existing regulatory or statutory requirements impose constraints on the ability of an agency to fully implement the CMS Plan, the agency would seek, as appropriate, regulatory or legislative changes to fully implement the CMS Plan."); 62 ("...CMS Plans...are intended to guide agency decision-making and agencies would adhere to the final CMS Plans to the extent possible, consistent with existing authorities...Once a CMS Plan is approved, Federal, State, and tribal authorities would implement them through their respective legal authorities."); and 65-66 ("Agencies would incorporate components of the CMS Plan into their respective regulations to the extent possible. Adherence with CMSP would be achieved through Federal and State agencies and tribal authorities incorporating CMS Plans into their pre-planning, planning, and permitting processes, to the extent consistent with existing laws and regulations. The CMS Plan signatories would periodically review these processes, and where legal constraints are identified, would seek to remedy these constraints, including by working with the NOC to evaluate whether a legislative solution or changes to regulations are necessary and appropriate."); National Ocean Policy Implementation Plan, April 2013, available at [http://www.whitehouse.gov/sites/default/files/national\\_ocean\\_policy\\_implementation\\_plan.pdf](http://www.whitehouse.gov/sites/default/files/national_ocean_policy_implementation_plan.pdf), Page 21 (Marine planning will support regional actions and decision-making...); and Marine Planning Handbook, July 2013, available at [http://www.whitehouse.gov/sites/default/files/final\\_marine\\_planning\\_handbook.pdf](http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf), Page 17 ("By their concurrence, Federal agencies agree that they will use the marine plan to inform and guide their actions in the region consistent with their existing missions and authorities.").

<sup>3</sup> See Charter for the Mid-Atlantic Regional Planning Body, Page 3, available at <http://www.boem.gov/MidA-RPB-Charter/> ("...regional marine planning...is intended to provide a framework for application of existing laws and authorities," and "RPB member agencies agree to participate in the development of a process to create and implement regional marine planning products..."), Mid-Atlantic Regional Ocean Planning Framework, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/> ("Regional ocean planning helps guide resource conservation..."), and Mid-Atlantic Regional Ocean Action Plan Options, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/> ("Five plan types...were considered, all of which would inform decision making...").

<sup>4</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

To that end, while acknowledging the pre-regulatory structure that exists under the National Ocean Policy/RPB construct, the Coalition believes that the work of the Mid-Atlantic RPB should be advisory only and non-binding in nature.

Consistent with the National Ocean Policy Implementation Plan's emphasis on the flexibility of regions to determine the scope, scale, and content of marine planning in a manner that "reflect[s] their unique interests, capacity to participate, and ways of doing business,"<sup>5</sup> rather than seek and prescribe agency implementation commitments, the Mid-Atlantic RPB should exercise such flexibility in a manner that provides data and information for voluntary use as agencies see fit, in accordance with agencies' own careful, independent, transparent, and legally sound consideration and best judgment.

#### *Existing and Potential Future Uses*

Significantly, in carrying out all its activities, it is vital that the RPB clearly commit to recognizing and accommodating all existing and foreseeable potential future uses and resources in a non-discriminatory manner in the development of any ocean plan content, explicitly citing fishing, boating, shipping, tugs and barges, oil and gas, renewable energy, pipelines, ports, military, undersea cables, and sand and gravel, among other uses. Simultaneous consideration of all uses and resources is required because individual uses and activities do not occur in a vacuum, and decisions as to one use or a limited set of uses will invariably impact other uses.

#### *Data Collection and Application*

For any RPB option ultimately pursued, any observing, mapping, and other data collection activities that are carried out must recognize limits in the ability of maps and forecasting/modeling tools to account for variations in conditions across geographic areas and reflect differences in operations among specific activities and users. Such activities should also have the ability to adapt to new information about ecosystems, alternative uses of ecosystem resources and services, and economic activities that drive quality of life in the region.

Furthermore, given inherent limits in the utility of maps and the fact that different types of maps may be necessary for various uses (and inappropriate for others), the utilization of a map or interpretation of data used to generate a map should only focus on the intended purpose and not be extrapolated to other uses. At the outset, the RPB must clearly and comprehensively communicate the purpose for which any maps are proposed to be developed, as the development of any individual map requires decisions on unique factors such as those pertaining to data, uses, interpretation, and visual representation.

The RPB must also provide clear guidance and protocols that apply to the collection and use of ocean plan data, including minimum requirements that ensure compliance with relevant federal and state data and information quality laws, standards, and protocols. To provide clarity in the process used to create mapping products and prevent data misinterpretation, the RPB should also commit to accurately communicating the clear methodology used to develop any proposed maps in a manner that would allow any user to reproduce the maps. In addition, continuous opportunities must be available to update the ocean plan and incorporate new data and information, including on a real-time basis if necessary.

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<sup>5</sup> See National Ocean Policy Implementation Plan, April 2013, Page 22, available at [http://www.whitehouse.gov/sites/default/files/national\\_ocean\\_policy\\_implementation\\_plan.pdf](http://www.whitehouse.gov/sites/default/files/national_ocean_policy_implementation_plan.pdf)

### *Resource Considerations*

In presenting ocean plan options for public consideration, the RPB notes that implementation of any option will require staff, time, and funding resources.<sup>6</sup> The current budgetary environment and fiscal constraints facing the nation continue to create increased competition for scarce federal resources, and the development and implementation of activities proposed in the options materials will require significant taxpayer dollars.

Given resource constraints and the potential diversion of existing resources away from statutorily-authorized activities that are essential to the ability of businesses to function and the economy and local communities to thrive, to facilitate informed and transparent feedback and decisions, the RPB should thus clearly communicate to the public all potential projected costs and funding sources associated with all proposed options under consideration.

### *Informed Decisions*

As to the Regional Ocean Assessment, the RPB's Regional Ocean Planning Framework notes that the Assessment is meant to "provide baseline information for ocean planning in the Mid-Atlantic" and a "comprehensive understanding and context for ocean planning."<sup>7</sup> In seeking comments on the Status of the Regional Ocean Assessment, the RPB further notes that the assessment will support development of the Regional Ocean Action Plan in part by providing information about baseline Mid-Atlantic conditions, resources, and uses and identifying trends, data gaps, and future uses to the extent possible.<sup>8</sup>

As conveyed at the RPB's May 2014 meeting, to ensure that the Regional Ocean Assessment fully informs any decisions on the development of a Mid-Atlantic ocean plan, deliberations on the contours of a regional ocean plan should not take place until the Regional Ocean Assessment has been developed and completed. Moreover, the Regional Ocean Assessment should be informed at every stage by meaningful engagement of stakeholders, including existing and potential commercial and recreational interests, who should have ample opportunity to provide and review data and ensure that it is used appropriately.

The Coalition also continues to maintain that, following completion of a Regional Ocean Assessment informed by stakeholder collaboration, decisions on whether or how to develop a Mid-Atlantic ocean plan should similarly be subject to formal and meaningful engagement and based on the input, advice, and consensus of the region's existing and potential commercial and recreational interests.

While the RPB's interim stakeholder engagement plan notes that it will use input received during this comment period to develop an initial draft long-term stakeholder engagement plan in early 2015, as described below sufficient and transparent engagement mechanisms remain absent. To promote informed decision-making, reduce the likelihood of unintended consequences, and ensure that broad regional support for a Mid-Atlantic ocean plan is not prematurely assumed, RPB decisions on whether and how to proceed with a Mid-Atlantic ocean plan should thus be postponed until a comprehensive engagement strategy and sufficient engagement mechanisms are in place and are followed by a stakeholder-based regional ocean assessment.

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<sup>6</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>7</sup> See Mid-Atlantic Regional Ocean Planning Framework, Pages 3 and 4, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

<sup>8</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 1, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.



In the event that – despite Coalition recommendations – the RPB continues to moves forward with the development of an ocean plan in the absence of an established comprehensive engagement strategy and sufficient engagement mechanisms followed by a completed stakeholder-based ocean assessment, the Coalition offers the following comments on the five approaches outlined by the RPB and the suggested structure of the Mid-Atlantic ocean action plan.

## **MID-ATLANTIC REGIONAL OCEAN ACTION PLAN OPTIONS AND SUGGESTED STRUCTURE**

The RPB presents the following five options as potential approaches for developing a Mid-Atlantic ocean plan: (1) issue-triggered coordination process; (2) compatibility assessment; (3) targeted coordination by issue or geography; (4) compatible use areas; and (5) comprehensive optimal use maps.

Although the RPB finds Options 1 and 5 to be impractical and seeks particular comment on the further consideration and refinement of the remaining three choices, it welcomes input on all options and states that there may be opportunities to refine options, including through potential hybrid approaches.<sup>9</sup>

### Option A: Issue-Triggered Coordination Process

*This type of plan would, with input from stakeholders, result in agreement on a process regarding how to engage in interjurisdictional coordination to address issues that arise on a case-by-case basis. Agreements would be developed between RPB member entities on how to improve governmental business practices that could be incorporated into National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) reviews and inform governmental planning processes.<sup>10</sup>*

While input is welcomed on all five options, the RPB states that it finds Option A to be impractical because it would “require addressing issues on a case-by-case basis and therefore may not result in sufficient improvement over the status quo.”

For different reasons, the Coalition agrees that Option A would be impractical. Given its non-statutory origins and the conflicts and uncertainty likely to result from its implementation, the Coalition opposes any effort to develop agency agreements for using the RPB’s ocean planning process to influence statutory environmental review and planning processes.

RPB actions should not lead to directives, requirements, or guidance that agencies are bound or otherwise committed to follow by virtue of being addressed in an ocean plan. New requirements or obligations pertaining to statutory review and planning processes must originate with the applicable agencies themselves, pursuant to their statutory authority and appropriate sources of information, rather than the RPB.

Given the absence of clear concepts of potential problems and solutions that are supported by thorough analysis, it is also entirely unclear how the RPB ocean planning process could improve existing governmental business practices for statutory reviews and planning processes, and how the RPB would determine which issues would trigger the incorporation of ocean plan content into those reviews and processes.

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<sup>9</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>10</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

In the event that – despite Coalition recommendations – the RPB nonetheless moves forward with Option A or a variation thereof, the Coalition would urge the RPB to make clear that agency implementation of any related ocean plan content will be strictly voluntary and based on the agency’s careful, independent, and transparent consideration and best judgment, grounded in sound science and data, and consistent with their existing applicable laws and regulations. In other words, the RPB would provide any related ocean plan content as non-binding guidance for informational purposes and not lead to additional requirements or obligations applicable to either regulators or regulatees.

Additional requirements would include the need for the RPB to: (1) clearly explain how existing government practices could be improved in a legally sound, predictable, and efficient manner; (2) propose the criteria under which issues would be selected to trigger agency incorporation of related ocean plan content; and (3) allowing adequate time for stakeholder engagement, review, and input, achieve consensus agreement on the RPB’s approach from the existing and potential commercial and recreational communities.

#### Option B: Compatibility Assessment

*This type of plan would, with input from stakeholders, support development of a compatibility assessment and agreements to use resulting products to inform decision making under existing authorities.<sup>11</sup>*

Among other things, the RPB notes that Option B would require the development of decision-support tools to “assess compatibility and maximize ocean use and conservation goals,” involve use of information in the Regional Ocean Assessment to develop compatibility assessments that would in turn inform discussions among management entities focused on “resolving interjurisdictional use conflicts and enhancing compatibility,” utilize a regional approach examining all Mid-Atlantic uses and resources, and “strive to cover a full range of ocean management issues.” The RPB also notes that the final ocean plan product would describe how the assessment would be used, formalized through agreements, by RPB agencies.<sup>12</sup>

While Coalition members appreciate the importance of understanding the many ways in which different ocean uses are compatible, the Coalition opposes both the development of a compatibility assessment in the manner proposed and agreements to use related products to influence statutory decision-making. The Coalition therefore urges the RPB not to implement Option B as proposed.

Among other things, compatibility assessments are redundant with current statutes such as the National Environmental Policy Act, and it is entirely unclear how the compatibility assessment would be conducted, funded, inclusive of stakeholder input, reflective of all relevant use and resource data and information, and utilized and applied across various sectors and authorities in highly consequential governmental decision-making. Meaningful comments are precluded by the lack of substance and clarity regarding these critical processes and how each agency would meet its statutory obligations in carrying them out.

Furthermore, rather than having compatibility assessments made available for individual agencies to use as they deem appropriate under their respective authorities, by virtue of commitments obtained in agreements that are developed, agencies would be compelled to use compatibility assessment-related products in carrying out their statutory responsibilities. While the Coalition appreciates the RPB’s

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<sup>11</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>12</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Pages 4, 5, 6, and 7, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

recognition that member agencies would still retain their statutory decision-making authority, any agreement or commitment that binds a member agency to using RPB products in carrying out their responsibilities would introduce inappropriate bounds or limits on agency discretion. Rather than be bound to RPB products, agencies must be able to use any information they deem appropriate for meeting statutory obligations.

To the extent that the RPB nonetheless implements Option B, any compatibility assessment must be limited to the compilation of non-binding reference materials based on sound science and data that address potential interactions between all existing and potential future uses and resources. The assessment would also have to be carried out under a process that has been transparently and publicly disclosed and, allowing adequate time for stakeholder engagement, review, and input, received the consensus support of the region's existing and potential commercial and recreational user group communities.

#### Option C: Targeted Coordination by Issue or Geography

*This type of plan would, with input from stakeholders, describe specific interjurisdictional coordination commitments that could focus on specific issues, programs, projects, and/or geographies (e.g., areas with significant use conflicts or important ecological value) which have not yet been determined. The interjurisdictional coordination agreements articulated in the plan would aim to improve governmental business practices and inform management actions under existing authorities.<sup>13</sup>*

The RPB states that efforts under Option C might focus on issues or areas that align with federal, state, and tribal priorities, citing examples such as canyons, mouth of the Chesapeake Bay, and certain wind energy areas, as well as involve RPB monitoring of the implementation of commitments made to change governmental business practices.<sup>14</sup>

The Coalition opposes Option C. In proposing to use the RPB ocean planning process to secure interjurisdictional commitments or agreements to influence governmental business practices and management actions, efforts would be undertaken to obligate agencies to incorporate non-statutory ocean plan content into their statutory decision-making processes. In addition, by engaging in a targeted effort, RPB activities might only address certain uses, information, or interests and thereby be detrimental to others. Simultaneous consideration of all uses and resources is required because individual uses and activities do not occur in a vacuum, and decisions as to one use or a limited set of uses will invariably impact other uses.

To the extent that the RPB pursues Option C or a variation thereof, the RPB must clarify that, rather than being targeted, any activities it engages in to facilitate interjurisdictional coordination will address all existing and potential future uses in the Mid-Atlantic region, including fishing, boating, shipping, tugs and barges, oil and gas, renewable energy, pipelines, ports, military, undersea cables, and sand and gravel, among other uses.

Furthermore, in addition to utilizing sound science and data, RPB efforts to address interjurisdictional coordination must feature formal and meaningful engagement with the regulated community and relevant agencies in a manner that provides sufficient opportunities to partner with, and obtain the input, advice, and consensus of the region's existing and potential commercial and recreational

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<sup>13</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>14</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 4, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

interests. Proceeding in such a manner will help ensure that RPB activities adequately address and do not hinder economic activity and growth of the region's blue economy.

Finally, rather than seek agency implementation agreements or commitments, the RPB would need to clarify that any decisions on whether or how to implement any eventual ocean plan content would be made by individual agencies based on their own independent judgment and in accordance with their respective authorities.

#### Option D: Compatible Use Areas

*This type of plan would, with input from stakeholders, result in mapping of discrete geographic areas (to be determined) with their specific resources, services, and habitats clearly delineated and documented. Decisions made under existing authorities would then be informed by the maps and by compatibility analyses.*<sup>15</sup>

Among other things, the RPB notes that Option D would require the development of decision-support tools; result in final decisions on ocean activities being "informed by agreed-upon delineation of resources, services, and habitats wherever practicable;" involve management entities convening to resolve conflicts based on resource, service, and habitat delineations (potentially including redefining geographies and developing management guidance); and include a step to memorialize RPB agency commitments to use the information.<sup>16</sup>

The Coalition opposes Option D. In seeking to obligate agencies to use the RPB ocean planning process and outcomes to influence their decision-making, resolve conflicts, possibly redefine geographies, institutionalize such commitments, and use compatibility analyses, Option D would either be redundant with existing laws or impose new unauthorized requirements.

As stated above, given its non-statutory origins and the conflicts and uncertainty likely to result from its implementation, actions should not be taken to secure agency agreements to use the RPB's ocean planning process to influence decision-making, including by taking action to resolve conflicts or redefine geographies.

Furthermore, the Coalition opposes efforts to memorialize agency use of information or products the establishment of which has not been authorized or funded by Congress. In addition to usurping legislative will and intent, proceeding in such a manner would only serve to heighten regulatory uncertainty by institutionalizing an effort that will almost certainly lead to conflicts, delays, and other complications with agency decision-making under existing authorities.

The Coalition also opposes RPB engagement in compatibility analyses, which under Option D, in conjunction with mapping data, would be used to guide agency decision-making. As stated under Option B with regard to a compatibility assessment, it is unclear how compatibility analyses would be conducted, funded, inclusive of all relevant use and resource data and information, and utilized and applied across various sectors and authorities.

To the extent that the RPB nevertheless implements Option D, any data, information, analyses, or products that are developed must be limited to non-binding reference materials based on sound science and data, account for all existing and potential future uses and resources, and be guided by close

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<sup>15</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>16</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Pages 4, 5, and 6-7, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

engagement with and the consensus of all existing and potential commercial and recreational user group communities. As such, efforts should not be taken to secure or memorialize agency commitments to use any resulting data, information, or products in carrying out their statutory duties.

#### Option E: Comprehensive Optimal Use Maps

*This type of plan would extend to the entire Mid-Atlantic region, and would, with input from stakeholders, result in a single, comprehensive map with all natural resources and current human uses mapped, areas of more compatibility and less compatibility identified, and optimal uses recommended for each type of area.*<sup>17</sup>

While input is welcomed on all five options, the RPB finds Option E to be impractical, stating that it “may be very time-consuming and costly, and create a rigid management system that may not readily incorporate changes as scientific information and technologies improve and as new ocean uses are proposed for the ocean.” The RPB adds that it also “could be very difficult to reach consensus on such a comprehensive plan.”<sup>18</sup>

For reasons that extend beyond merely resource, adaptability, and consensus considerations, the Coalition agrees that Option E is impractical and urges the RPB not to pursue its implementation.

Utilization of an RPB ocean plan that, among other things, identifies areas of more compatibility and less compatibility and recommends optimal uses to inform agency decision-making would conflict with the RPB’s acknowledged non-regulatory status and further cloud the regulatory landscape for the Mid-Atlantic’s existing and potential future ocean and coastal user community. The RPB’s notation that RPB member entities have agreed to “commit to following the [eventual ocean action] plan” underscores concerns over the regulatory implications associated with this process.<sup>19</sup> Proceeding with Option E would create an entirely new management approach that would be certain to cause conflicts with current criteria and purposes established under statutory programs.

Entities, mechanisms, and processes that were created by state and federal statutes to address ocean and coastal resource management already exist, and it is entirely unclear how such a comprehensive map with potentially significant regulatory consequences would be developed and applied in a manner that is consistent with existing laws, regulations, and processes.

Furthermore, in making determinations on the appropriateness or compatibility of various uses utilizing unknown and potentially unproven methodologies and in the absence of adequate resources, implementation of such a plan could hinder existing and potential future Mid-Atlantic ocean and coastal commercial and recreational activities without providing added environmental or cultural benefits. Concerns with Option E are further heightened given that maps are inherently static and many times not reflective of new circumstances that arise in a dynamic and rapidly changing world.

To the degree that the RPB pursues development of Option E or a variation thereof, in addition to proposing and achieving user group consensus on the criteria and process under which areas would be deemed compatible and uses determined to be optimal, it is critical that the RPB account for all existing and potential future commercial and recreational uses including but not limited to fishing, boating,

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<sup>17</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>18</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 3, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

<sup>19</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>.

shipping, tugs and barges, oil and gas, renewable energy, pipelines, ports, military, undersea cables, and sand and gravel, among other uses.

Furthermore, such a plan must not be implemented before relevant and scientifically sound data is appropriately collected, analyzed, and made publicly available. Completion of such activities for the comprehensive product contained in Option E would be constrained by the imposition of arbitrary deadlines.

Finally, any eventual plan emanating from Option E must be made available to individual agencies for their use (if any) as they deem appropriate under their respective authorities, rather than lead to requirements resulting from efforts to obtain implementation commitments.

### Suggested Structure of the Mid-Atlantic Ocean Action Plan

The RPB proposes the following structure for the Mid-Atlantic Regional Ocean Action Plan:

- Introduction
- Mid-Atlantic Framework for Regional Ocean Planning
- Regional Ocean Assessment
- Data and Analysis
- Implementation Plan
- Plan Updates
- Interjurisdictional Coordination Process
- Monitoring Strategy
- Iteration Process
- Appendix A: Stakeholder Engagement Plan
- Appendix B: RPB Member Institution Capacities and Authorities<sup>20</sup>

While the Coalition agrees that any ultimate product should include the Regional Ocean Assessment and the Stakeholder Engagement Plan, as stated above, the Coalition maintains that a Regional Ocean Assessment, comprehensive engagement strategy, and sufficient engagement mechanisms should be in place before the comment period is closed and decisions are made on the contours of a Mid-Atlantic Regional Ocean Action Plan.

Until all stakeholders have had meaningful input into an ocean assessment that provides a comprehensive review of all existing and future ocean resource uses alongside an assessment of regional ecosystems, it is premature to determine what a marine plan process should achieve and what a plan should contain.

Following the appropriate completion of an ocean assessment, a stakeholder-driven process should be conducted to decide on specific goals, objectives, potential outcomes, and approaches based on the information included in the assessment. The articulation of more specific goals, objectives, outcomes, and approaches is critical to ensuring an open and transparent process that does not lead to unintended consequences, and is all the more necessary given that the outcomes will have significant consequences for regulated entities by virtue of requirements embodied in foundational documents that agencies commit to implementing the ultimate products. In soliciting stakeholder participation and input, the

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<sup>20</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Pages 4-5, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>

RPB must clearly communicate the full range of implications, including regulatory, associated with the RPB process.

As to the proposed Monitoring Strategy, the RPB notes that metrics and criteria agreed upon by the RPB would be developed to evaluate progress made on each of the Regional Ocean Action Plan's elements.<sup>21</sup> The RPB should clarify that any such metrics and criteria will be agreed upon by the RPB and Mid-Atlantic stakeholders, including existing and potential commercial and recreational user group communities. Doing so will help ensure a more transparent and balanced review utilizing metrics and criteria that adequately address economic and societal considerations. Furthermore, the RPB should clarify how it will ensure that any such evaluations are conducted and disclosed in a timely and open manner.

In addition, since the development and implementation of any of the proposed options will require significant taxpayer dollars, the RPB should publicly disclose detailed projected costs and funding sources associated with each agencies' role in carrying out the approach that is ultimately selected. As stated above, to provide an opportunity for informed and transparent feedback and decisions, such information should be clearly communicated to the public and allow adequate time for stakeholder review and input before any particular option is selected.

## **STATUS OF THE MID-ATLANTIC REGIONAL OCEAN ASSESSMENT**

The RPB notes that the Regional Ocean Assessment (Assessment) will support development of the ocean action plan and provide information about baseline Mid-Atlantic conditions, resources, and uses; identify trends, data gaps, and future uses to the extent possible; and contain the best available data that exists or is in development.<sup>22</sup>

In seeking comments on the Assessment's proposed structure and content, the RPB notes that it does not intend to address the status of all Mid-Atlantic resources, features, and uses, but will rather focus on topics that are most relevant to the RPB goals and objectives and "where there is potential overlap between marine resources, habitats and ocean users, and where constituent viewpoints may differ and decision-making is more complex."<sup>23</sup>

To that end, the RPB provides a non-exhaustive list of examples of Assessment topics that it says are based on goals and objectives included in the RPB's Regional Ocean Planning Framework.<sup>24</sup> As to the RPB's "Sustainable Ocean Uses" goal, the outline includes 27 use categories including but not limited to National Security, Oil & Gas, Renewable Energy, Commercial, Recreational and Sustenance Fishing, Ocean Aquaculture, Energy Export, Maritime Traffic Analysis, Proposed Anchorage Areas, Shipping, and Current and Foreseeable Future Undersea Infrastructure.

With regard to the "Healthy Ocean Ecosystem" goal, the outlines includes 15 subjects including Ecosystem Based Management, Ecosystem Changes in Mid-Atlantic, Ecosystem Services, Natural Conditions and Actions, Coastal Inundation, Ocean Warming, Sea Level Change, Water Quality/Pollutants, and Carbon Sequestration & Ocean Acidification, among others.

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<sup>21</sup> See Mid-Atlantic Regional Ocean Action Plan Options, Page 5, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan-Options/>

<sup>22</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 1, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

<sup>23</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 2, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

<sup>24</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 3, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

In reviewing the proposed Assessment structure and content, the RPB specifically asks that the public consider the following questions:

- Does the outline capture the topics that need to be considered for Mid-Atlantic ocean planning?
- Will the chosen format (i.e. high-level summary plus web links and maps) inform the development of a Mid-Atlantic Ocean Action Plan, and if not, would you recommend a different format?
- Are there additional types of information that should be compiled for each topic?
- When stakeholder input is sought on content for the Assessment, would you prefer to go to a data portal, web platform, and/or a printed document?
- What ideas do you have for keeping this information up-to-date?<sup>25</sup>

### *Regional Ocean Assessment Topics and Related Information*

At the outset, the Coalition underscores the importance of collecting data and information on regional environmental and economic uses and resources simultaneously in a manner that will help ensure a comprehensive and well-informed Assessment.

As to the range of topics to be addressed in the Assessment, the Coalition opposes an approach that does not comprehensively assess all Mid-Atlantic uses and resources. While efforts to ensure inclusion of commercial and recreational uses and resources are appropriate, the Coalition maintains that, aided by close engagement with the commercial and recreational user group communities that includes ample opportunity for stakeholder review and input of draft materials, the Assessment must analyze all existing and foreseeable potential future uses and resources and related pertinent information in a non-discriminatory manner. Consideration of all uses and resources is necessary as individual uses and activities do not occur in a vacuum, and any use of the Assessment to influence decisions as to one use or a limited set of uses will invariably impact others.

As to the proposed environmental content for the Assessment, the Coalition is particularly concerned with and opposes the proposed outline's inclusion of "Ecosystem Based Management," a highly complex and expansive management philosophy that encompasses all other topics.<sup>26</sup> At the present state of knowledge, practical experience with the design and implementation of ecosystem-based management is limited, especially on the broad spatial and temporal scales that are required to support informed ocean and coastal planning decisions. Without further clarity and scientific advancement on how ecosystem-based management is operationalized, it is premature to include it in this document. Similarly, it is unclear how the RPB would define and capture "Ecosystem Changes in Mid-Atlantic" and "Ecosystem Services" in this assessment, yet any data on these topics could also be consequential for planning purposes.

Therefore, before ecosystem management, changes, and services are included in an Assessment, significant thought and time must be invested in developing data collection, quality control, monitoring, and analysis, and interpretation methodologies that can deliver reliable and sound ecosystem information.

Any ecosystem-oriented topics considered for inclusion in an Assessment must be based on:

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<sup>25</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 1, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

<sup>26</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 3, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.



- A statement outlining the relevant goals and objectives, as determined by the stakeholder community through public processes;
- Data collection and measurement programs outlining which parameters (variables) should be monitored, for what purpose, how, where, and how often;
- Protocols for data quality control to ensure measurements are technically defensible and bound by acceptable uncertainty limits before they are released for analysis, model input, and interpretation; and
- Protocols outlining the anticipated use of the information to ensure the application of scientifically proven analysis methods and the dissemination of peer-reviewed, statistically sound information

Since ecosystem science information could be misunderstood or applied incorrectly, it is essential that the plan provide mechanisms to ensure the peer review and scientifically sound use of any information obtained.

In addition, the RPB must ensure that all impacted stakeholders, including the Mid-Atlantic existing and potential commercial and recreational user communities, buy in to the initiative and are involved and committed at every stage of the process: the identification of goals, the development and design of effective monitoring programs, the implementation of such programs on cross-sectoral scales, the continuous analysis of data outflow, and the alignment of adaptive management techniques with the observations.

Moreover, defining and realizing realistic and achievable ecosystem monitoring efforts, and identifying actual versus perceived problems, will require that qualified local scientists and scientific experts from industry stakeholders are brought in to work together with RPB representatives.

Therefore, the Coalition finds that the Assessment must not address ecosystem-based topics unless and until pertinent data is appropriately collected, analyzed, and made publicly available. Such activities will take time, and their completion should not be constrained by the imposition of arbitrary deadlines.

#### *Regional Ocean Assessment Format*

The RPB proposes an Assessment format comprised of summaries and maps as well as links and references to peer-reviewed scientific articles, government publications, and other sources of information with more traditional knowledge and other relevant information.<sup>27</sup>

Within any format for presenting maps or data reflected in the Assessment, the RPB must account for and describe the limits in the ability of maps to account for variations in dynamic conditions across geographic areas and reflect differences in operations among specific activities and users. In addition, mechanisms must be readily available to incorporate new information about ecosystem condition, alternative uses of ecosystem resources and services, and economic activities that drive quality of life in the region.

Furthermore, for any maps included in the Assessment, the RPB must clearly and comprehensively communicate the purpose for which they were developed, as the development of any individual map

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<sup>27</sup> See Status of the Mid-Atlantic Regional Ocean Assessment, Page 2, available at <http://www.boem.gov/Status-of-Mid-Atlantic-Regional-Ocean-Assessment/>.

requires decisions on unique factors such as those pertaining to data, uses, interpretation, and visual representation.

Significantly, the RPB must also provide clear guidance and protocols that apply to the collection, inclusion, and reference to all Assessment and Assessment-related data, including minimum requirements that ensure compliance with relevant federal and state data and information quality laws, standards, and protocols, and continuous opportunities to update the Assessment with new data and information.

#### *Venue for Future Stakeholder Input on Regional Ocean Assessment Content*

As to future requests for review and comment on Assessment content, the RPB should provide a printed document as one mechanism for review. The document should include snapshot screen captures of any relevant maps, charts, or graphics that the RPB has relied on in the development of the content. Such data and information, and any other external sources that the RPB has relied on in the development of Assessment content, should be sourced and stored in an online database that is easily accessible to the public and left unaltered for the duration of the public review.

In addition to a printed document, opportunities for review and input must also be made available through any other mechanism(s) under which the RPB or regulatory agencies may utilize the Assessment, including any data portals or web platforms.

It is also critical that adequate time be allocated for comprehensive stakeholder review of content for the Assessment and that all data management issues are appropriately addressed, including through the establishment of clear criteria for the acceptance of Assessment data in a manner that ensures compliance with relevant federal and state data and information quality laws, standards, and protocols.

#### *Regional Ocean Assessment Updates*

In light of the stated intention to use the Assessment to support development of the ocean plan and in turn inform decision-making, as mentioned above, continuous opportunities must be available to update the Assessment with new data and information.

Following the release of the initial draft of the Assessment, public comment should therefore be sought on a frequent basis as to whether the Assessment is in need of an update to account for new data or information. In seeking such comment, the purpose and application of the Assessment and its relevance to decision-making activity must be clearly articulated.

### **MID-ATLANTIC REGIONAL PLANNING BODY INTERIM PLAN FOR STAKEHOLDER ENGAGEMENT**

In the “Interim Plan for Stakeholder Engagement,” the RPB presents its approach for stakeholder engagement (including its engagement goal and objectives), outlines stakeholder engagement opportunities involving public comment periods, public meetings, email communications, and RPB website updates, and seeks input on the development of a longer-term stakeholder engagement plan in early 2015.<sup>28</sup>

The RPB seeks to understand issues of particular importance to stakeholder groups and their constituents, how stakeholder groups and their constituents would like to engage, the types of

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<sup>28</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Pages 1-5, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

engagement opportunities and communication various groups would find most useful, and, in light of resource constraints and other ongoing activities, suggestions for ways in which the RPB could work with others to ensure stakeholder ideas are recognized, understood, and considered.<sup>29</sup>

The RPB specifically seeks comments on 28 potential tools and outreach methods outlined in Appendix A, as well as any others that could be used most effectively by the RPB on its own and/or in coordination with others.<sup>30</sup> The tools and methods included in Appendix A are comprised of the following:

- RPB meetings (public comment and workshop-style)
- RPB telephone calls to stakeholders (ad hoc and targeted)
- Gathering general and document-specific input (through public comment opportunities, active consideration of stakeholder input, RPB member participation at stakeholder meetings, and stakeholder input on wiki-style developed documents)
- Electronic updates (through RPB and partner/RPB member entities' websites and RPB emails)
- Media outreach (press releases, RPB interaction with media, and use of RSS feeds/social media and YouTube or similar platforms)
- Stakeholder surveys (informal and more formal)
- Informational/Communications materials (through RPB website and possibly email)

The RPB's formula reflects that – while all 28 outreach tools and methods that are outlined involve information sharing flowing primarily from the RPB to stakeholders – only 17 of the 28 also involve information sharing flowing primarily from stakeholders to the RPB and only 7 of the 28 also involve dialogue among the RPB and stakeholders.<sup>31</sup>

As the Coalition has previously communicated, mechanisms including public comment opportunities, surveys, and liaison committees that interact with third parties are often seen as one-way, passive and/or reactive communications that preclude true partnership-building and collaboration. As such, engagement options listed in the Appendix – while they may have a role in some processes – would be insufficient in and of themselves to secure the buy-in, support, and consensus of concerned regional economic stakeholders with potentially divergent views on RPB ocean planning activity. Limiting user group engagement to such mechanisms could increase the likelihood that implementation of RPB products may unnecessarily harm the region's economy, communities, and livelihoods.

Rather, RPB stakeholder engagement efforts must be sufficient to secure the buy-in, support, and consensus of the region's existing and potential commercial and recreational stakeholders. Given the significant regulatory, economic, and societal implications involved with the regional ocean planning process, RPB activities should be subject to stakeholder processes and standards at least as rigorous as those accorded to statutorily-authorized ocean use planning and regulatory processes. A clear, transparent, and inclusive process would decrease the likelihood of poorly-informed actions that unnecessarily constrain commercial or recreational activity or lead to unintended consequences for a range of interests in the Mid-Atlantic.

To that end, the Coalition continues to urge the RPB to establish immediately a formal role for commercial and recreational user groups (including through direct RPB participation and, at minimum,

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<sup>29</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Pages 4 and 6, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

<sup>30</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Pages 4 and 6-8, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

<sup>31</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Pages 6-8, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

through establishment of a formal advisory committee under the Federal Advisory Committee Act as authorized under Section 8 of the National Ocean Policy Executive Order). While it would not sufficiently address all flaws in the existing process, proceeding in such a manner would help address the RPB's recognition of "the need to ensure that stakeholders have opportunities to engage in ways that work well for them and that result in their interests being well understood and incorporated."<sup>32</sup>

With regard to the third party-managed Stakeholder Liaison Committee established earlier this year, as the Coalition has previously noted, using a third party to serve as a conduit between a liaison committee and the RPB does not serve to meet the needs for inclusiveness of a diverse stakeholder group.<sup>33</sup> Such an approach puts additional bureaucratic distance between the RPB and its stakeholders, which goes counter to directives for effective stakeholder involvement.

As to RPB references to the consideration of financial and resource constraints in determining a longer-term engagement plan,<sup>34</sup> the Coalition continues to maintain that if resource constraints preclude the Mid-Atlantic RPB's capacity to support a formal engagement mechanism including a federal advisory committee, then it seemingly lacks the capacity to engage in ocean governance-related activities and should not endeavor to participate in a regional ocean planning process that could result in impacts on commercial and recreational interests and the jobs and communities that they support and seek to support.

In the event that the Mid-Atlantic RPB continues to rely on other less formal mechanisms, user groups and the public must be kept fully informed and engaged regarding any such activities. To that end, regardless of the mechanism utilized, the RPB should identify its perceived stakeholders and outline and analyze the concerns of all identified sectors and groups. In doing so, to ensure an informed and meaningful public stakeholder product to guide RPB activities, the RPB should widely and transparently seek stakeholder input on a draft document in a manner that informs all potentially impacted regulated entities of the full range of implications associated with RPB activities. Proceeding in such a manner would help increase the level of stakeholder awareness and possibly engagement, as many stakeholders currently remain unaware of the RPB's existence and activities.

If the RPB continues to rely on the third party-managed Stakeholder Liaison Committee, to ensure an open and transparent process, public notice and topics of deliberation must be given well in advance of its meetings, such meetings should be held in a public forum and include an opportunity for public comment and discussion, and membership should be open to all interested sectors and groups, including those that seek future involvement in commercial and recreational activities in the region.

## **CONCLUSION**

The Regional Ocean Action Plan Options presented for public comment would involve the use of ocean plan content and processes to direct agency decision-making activities in a manner that will almost certainly introduce significant uncertainty, confusion, delay, and negative economic effects for businesses and communities across the region. While the Coalition appreciates the value of planning and informed decision-making, it continues to maintain that the RPB-based planning process and its associated regulatory implications represents an overly complicated and unnecessary initiative that will

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<sup>32</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Page 2, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

<sup>33</sup> See July 15, 2014 National Ocean Policy Coalition Letter to the Mid-Atlantic Regional Planning Body, available at [https://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/Letter\\_to\\_Mid\\_Atlantic\\_RPB.pdf](https://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/Letter_to_Mid_Atlantic_RPB.pdf).

<sup>34</sup> See Mid-Atlantic Regional Planning Body Interim Plan for Stakeholder Engagement, Pages 4 and 6, available at <http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body-Interim-Plan-for-Stakeholder-Engagement/>.

confuse and potentially detract from the existing range of clear, well-understood, and statutorily-authorized planning tools available to governmental agencies.

If, however, the RPB member agencies choose to continue with such a planning process, rather than seeking to bind agency rulemakings and other actions to an RPB product that has not been authorized by statute and whose implementation may conflict with processes established through existing laws and regulations, the RPB should closely engage all existing, emerging, and future Mid-Atlantic user groups in an effort to provide non-binding data and information for individual agencies to voluntarily use as they see fit.


Furthermore, in carrying out any activities, including those related to the development of a Regional Ocean Assessment or Regional Ocean Action Plan, any data and information should be developed in the most comprehensive manner possible, simultaneously analyzing all ecological and economic resources and existing and potential future uses and opportunities in the region.

In compiling and providing any data and information, the RPB should also work closely with the commercial and recreational communities to ensure that all resources and existing and potential future uses are accounted for and that such data and information is based on sound science and compliant with applicable data and information quality laws, standards, and protocols.

In addition, the RPB should not proceed any further with determining the contours of a Mid-Atlantic Regional Ocean Action Plan unless and until formal mechanisms for user group engagement (including but not limited to a formal advisory body), a comprehensive stakeholder engagement strategy, a regional ocean assessment, and a detailed assessment of resource needs and sources have been developed and are in place. If and when that time occurs, any development of a Regional Ocean Action Plan should occur under a stakeholder-based process.

The Coalition appreciates the opportunity to provide feedback and respectfully requests that the RPB consider the comments herein as it contemplates its next steps.

Sincerely,



Brent Greenfield  
Executive Director  
National Ocean Policy Coalition

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Fri, Nov 21, 2014 at 7:42 AM  
Subject: Re: Recommendations for the Mid-Atlantic Regional Planning Body re: the Regional Ocean Assessment and the Regional Ocean Action Plan  
To: "Chase, Alison" <[achase@nrdc.org](mailto:achase@nrdc.org)>  
Cc: "[Robert.LaBelle@boem.gov](mailto:Robert.LaBelle@boem.gov)" <[Robert.LaBelle@boem.gov](mailto:Robert.LaBelle@boem.gov)>, "[gschultz@dnr.state.md.us](mailto:gschultz@dnr.state.md.us)" <[gschultz@dnr.state.md.us](mailto:gschultz@dnr.state.md.us)>, "[KelseyLeonard@shinnecock.org](mailto:KelseyLeonard@shinnecock.org)" <[KelseyLeonard@shinnecock.org](mailto:KelseyLeonard@shinnecock.org)>, "[MidAtlanticRPB@boem.gov](mailto:MidAtlanticRPB@boem.gov)" <[MidAtlanticRPB@boem.gov](mailto:MidAtlanticRPB@boem.gov)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Thu, Nov 20, 2014 at 5:00 PM, Chase, Alison <[achase@nrdc.org](mailto:achase@nrdc.org)> wrote:  
Attached please find a letter from the scientific community expressing support for the identification and protection of important ecological areas in the Mid-Atlantic.

Please feel free to contact me with any questions on this letter at 212.727.4551.

Sincerely,

Ali Chase

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*Alison Chase*  
*Policy Analyst*  
*Natural Resources Defense Council*  
*40 West 20th Street*  
*New York, NY 10011*  
*Phone: 212.727.4551*  
*Fax: 212.727.1773*  
[achase@nrdc.org](mailto:achase@nrdc.org)

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November 20, 2014

**Mid-Atlantic Regional Planning Body Co-Leads:**

Mr. Robert LaBelle  
Senior Advisor to the Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Ms. Kelsey Leonard  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

Ms. Gwynne Schultz  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

***Submitted electronically***

Dear Mr. LaBelle, Ms. Schultz, and Ms. Leonard:

Thank you and the other Mid-Atlantic Regional Planning Body (RPB) representatives for the opportunity to comment on the draft Mid-Atlantic Regional Ocean Assessment and on options for a Regional Ocean Action Plan that will guide the region's future ocean use and protection.

We view the work of the RPB as the natural progression of the call from both the U.S. Commission on Ocean Policy and the Pew Oceans Commission<sup>1</sup> to embrace ecosystem-based management (EBM)<sup>2</sup> as a means to help protect our marine resources. As such, we were pleased to see many EBM elements incorporated into the RPB's recently finalized Mid-Atlantic Regional Ocean Planning Framework (Framework) and, in particular, support its Healthy Ocean Ecosystem Goal to "Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration."<sup>3</sup>

A critical component to achieve the RPB's Healthy Ocean Ecosystem Goal is the identification and protection of a network of important marine ecological areas. We encourage the Regional Ocean Assessment Work Group (ROA Work Group) to engage the science community in identifying scientific criteria to guide selection of a network of ocean areas which, together, would represent and adequately connect important habitats, populations and ecological processes in order to safeguard their continued functioning and resilience. The methodology to identify a network of important ecological areas is well-established in the scientific literature and has been used by practitioners worldwide. We believe such an

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<sup>1</sup> U.S. Commission on Ocean Policy. 2004. *An Ocean Blueprint for the 21<sup>st</sup> Century*, available at [http://govinfo.library.unt.edu/oceancommission/documents/full\\_color\\_rpt/welcome.html](http://govinfo.library.unt.edu/oceancommission/documents/full_color_rpt/welcome.html).; Pew Oceans Commission. 2003. *America's Living Oceans: Charting a Course for Sea Change*, available at [http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=30009](http://www.pewtrusts.org/our_work_report_detail.aspx?id=30009).

<sup>2</sup> McLeod, K.L., J. Lubchenco, S.R. Palumbi, and A.A. Rosenberg. 2005. *Scientific Consensus Statement on Marine Ecosystem-Based Management*, available at [http://www.compassonline.org/science/EBM\\_CMSP/EBMconsensus](http://www.compassonline.org/science/EBM_CMSP/EBMconsensus).

<sup>3</sup> Framework at 6, available at <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

effort was envisioned for the regional assessment in the RPB's guiding document, the *Final Recommendations of the Interagency Ocean Policy Task Force*, which calls for the RPB to, with assistance from scientific and technical experts, "investigate, assess, forecast, and analyze ... The ecological condition and relative ecological importance or values of areas within the planning area, including identification of areas of particular ecological importance."<sup>4</sup> As members of the scientific community, we stand ready to aid the ROA Work Group in developing this network.

Once developed, the Regional Ocean Action Plan (Plan) should identify the necessary management measures that the agencies will take, under their existing authorities, to protect these areas from uses that are demonstrated to be incompatible with their primary function of ensuring broader ecosystem health. We further recommend that the Plan identify clear objectives and indicators and routinely monitor these so that we will know if the management changes are resulting in improved ecosystem health.

We encourage you to reach out to us and other scientists and subject matter experts to provide further feedback on issues requiring scientific advice, such as the Regional Ocean Assessment, the development of the network of important ecological areas, cumulative impacts analysis, and ecosystem health objectives. Thank you for your work to help protect our ocean resources for this and future generations.

Sincerely,

Dr. Gail M. Ashley  
Distinguished Professor  
Department of Earth & Planetary Sciences  
Rutgers University

Dr. Peter J. Auster  
Research Professor Emeritus of Marine Sciences  
University of Connecticut  
and Senior Research Scientist  
Mystic Aquarium - Sea Research Foundation

Dr. Donna Marie Bilkovic  
Research Associate Professor of Marine Science  
Virginia Institute of Marine Science  
College of William & Mary

Dr. Malcolm J. Bowman  
Distinguished Service Professor of Oceanography  
School of Marine and Atmospheric Sciences  
Stony Brook University

Dr. Brett Branco  
Assistant Professor  
Department of Earth and Environmental  
Sciences  
Brooklyn College and CUNY Graduate Center

Dr. Mark J. Brush  
Virginia Institute of Marine Sciences  
College of William & Mary

Dr. Mark J. Butler IV  
Professor & Eminent Scholar  
Department of Biological Sciences  
Old Dominion University

Dr. Demian Chapman  
Assistant Director of Science  
Institute for Ocean Conservation Science and  
Assistant Professor  
School of Marine and Atmospheric Sciences  
Stony Brook University

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<sup>4</sup> *Final Recommendations of the Interagency Ocean Policy Task Force at 57*, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf). Emphasis added.



Dr. Merry Camhi  
Director, New York Seascape  
New York Aquarium  
Wildlife Conservation Society

Dr. David O. Conover  
Professor, School of Marine and Atmospheric  
Sciences  
Interim Vice President for Research  
Stony Brook University

Jon Forrest Dohlin  
Vice President and Director  
New York Aquarium  
Wildlife Conservation Society

Dr. Jan Robert Factor  
Professor of Biology  
Purchase College, State University of New York  
Core Faculty  
Shoals Marine Laboratory

Dr. Sean Fanelli  
President Emeritus  
Nassau Community College

Dr. Jeremy Firestone  
Professor of Marine Policy  
School of Marine Science and Policy  
University of Delaware

Dr. Michael L. Judge  
Professor of Biology  
Manhattan College

Dr. Les Kaufman  
Professor of Biology  
Boston University Marine Program  
and Marine Conservation Fellow  
Betty and Gordon Moore Center  
for Ecosystem Science and Economics  
Conservation International

Dr. Chris Kennedy  
Assistant Professor of Environmental  
Economics  
Department of Environmental Science and  
Policy  
George Mason University

Dr. Emily S. Klein  
Postdoctoral Researcher, Ecology &  
Evolutionary Biology  
Princeton University

Dr. Arthur H. Kopelman  
SUNY Distinguished Service Professor &  
Professor of Science  
Department of Science and Mathematics  
Fashion Institute of Technology, State  
University of New York  
and President  
Coastal Research and Education Society of Long  
Island

Dr. Robert E. Kopp  
Associate Professor, Department of Earth &  
Planetary Sciences  
Associate Director, Rutgers Energy Institute  
Rutgers University

Dr. Maureen Krause  
Associate Professor  
Department of Biology  
Hofstra University

Dr. George P. Kraemer  
Professor of Environmental Studies  
Purchase College, State University of New York

Dr. Heather Leslie  
Sharpe Assistant Professor of Environment and  
Society and Biology  
Department of Ecology and Evolutionary  
Biology  
Brown University

Dr. Simon A. Levin  
George M. Moffet Professor of Biology  
Princeton University

Dr. Susan Lieberman  
Vice President, International Policy  
Wildlife Conservation Society

Dr. Romuald N. Lipcius  
Professor of Marine Science  
Virginia Institute of Marine Science  
College of William & Mary

Dr. John Marra  
Professor, Dept. Earth and Environmental  
Sciences  
Director, Aquatic Research and Environmental  
Assessment Center  
Brooklyn College

Ms. Jerry McCormick-Ray  
Senior Scientist  
Department of Environmental Sciences  
University of Virginia

Dr. Peter J. Morin  
Distinguished Professor  
Department of Ecology, Evolution & Natural  
Resources  
Rutgers University

Dr. John A. Musick  
Acuff Professor Emeritus  
Virginia Institute of Marine Science  
College of William & Mary

Dr. Janet Nye  
Assistant Professor  
School of Marine and Atmospheric Sciences  
Stony Brook University

Dr. Christine O'Connell  
Professor and Workshop Supervisor  
Alan Alda Center for Communicating Science  
School for Journalism  
Stony Brook University

Dr. Matthew J. Oliver  
Associate Professor of Oceanography  
School of Marine Science and Policy  
College of Earth, Ocean and Environment  
University of Delaware

Dr. Michael Pace  
Professor of Environmental Sciences  
University of Virginia

Dr. Ellen Pikitch  
Executive Director and Professor  
Institute for Ocean Conservation Science  
School of Marine and Atmospheric Sciences  
Stony Brook University

Dr. Malin Pinsky  
Assistant Professor of Ecology, Evolution, and  
Natural Resources  
Rutgers University

Dr. G. Carleton Ray  
Research Professor  
Department of Environmental Sciences  
University of Virginia

Dr. John Reinfelder  
Professor of Environmental Science  
Rutgers University

Dr. Howard C. Rosenbaum  
Director  
Ocean Giants Program  
Global Conservation Programs  
Wildlife Conservation Society

Dr. Carl Safina  
Endowed Professor for Nature and Humanity  
Founding President, The Safina Center  
Stony Brook University

Dr. Eric W. Sanderson  
Senior Conservation Ecologist  
Wildlife Conservation Society

Dr. Oscar Schofield  
Chair of the Department of Marine and Coastal  
Sciences  
Co-Director of the Coastal Ocean Observation  
Laboratory  
Member of Institute of Earth, Ocean, and  
Atmospheric Sciences  
School of Environmental and Biological  
Sciences  
Rutgers University

Dr. Jonathan H. Sharp  
Professor Emeritus of Oceanography  
School of Marine Science and Policy  
University of Delaware

Dr. Dan Silver  
Executive Director  
Endangered Habitats League

Dr. R. Lawrence Swanson  
Director, New York Marine Sciences  
Consortium  
Stony Brook University

Dr. John T. Tanacredi  
Professor of Earth and Environmental Studies  
Director, Molloy College Center for  
Environmental Research and Coastal Oceans  
Monitoring (CERCOM)  
Molloy College

Dr. John Waldman  
Professor  
Queens College, City University of New York

Dr. Judith Weis  
Professor Emerita  
Department of Biological Sciences  
Rutgers University

Dr. Charles Yarish  
Professor  
Department of Ecology & Evolutionary Biology  
University of Connecticut

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Mon, Nov 24, 2014 at 7:42 AM  
Subject: Re: ROPB comments for Options Nov. 20  
To: Gregg Rosner <[3lungho@gmail.com](mailto:3lungho@gmail.com)>

Thank you for participating in the public listening session in Lewes, Delaware, and for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Fri, Nov 21, 2014 at 6:19 PM, Gregg Rosner <[3lungho@gmail.com](mailto:3lungho@gmail.com)> wrote:  
Your due diligence, is commendable.

Unfortunately, the process of habitat fragmentation, inclusive of any current option by the RPB, is not acceptable, for sustaining current populations of marine mammal and sea turtles.

My comments, are written accordingly.

Regards-

Gregg

On Fri, Nov 21, 2014 at 12:26 PM, MidAtlanticRPB, BOEM <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)> wrote:  
Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents.

Unfortunately, we are unable to open the attachment contained in your email. Would you be able to resend your comments to the Mid-Atlantic Regional Planning Body in a different format?

Thank you.

2014-11-19 18:19 GMT-05:00 Gregg W Rosner <[3lungho@gmail.com](mailto:3lungho@gmail.com)>:

Gregg Rosner

BOEM  
Public Comments #2  
November 20, 1014

To whom it may concern:

The proposed industrial projects of BOEM relative to the Regional Ocean Planning Body (ROPB) including gas and oil exploration, wind farms, and mineral and sand mining operations, are in non-compliance with various statues of Section (2) of the Marine Mammal Protection Act of 1971 (16 USC Chapter 31)

There currently is no accountability of Federal or state regulatory agencies for impingement of migratory pathways that are empirically and historically proven, with particular emphasis to the large baleen whales, *Mysticeti*.

These are addition to my spoken comments in Lewes, DE on the evening of November 5, concerning the loss of the natural marine soundscape (biophony) , with the proposed spatial planning options.

The MARCO data portal, an integral part of this ocean planning, has still, despite numerous requests to list seals as a marine mammal species in the region, not included them. Even MERR (Marine Education, Research and Rehabilitation) the stranding organization in Delaware, submitted stranding data in Spring 2014, for the last eight years on record.

These are important marine mammals, as their range, density and species diversity has changed dramatically in the last few years, with neonates born in local waters during the winter of 2014. (MERR 2014)

The ROPB, must integrate the long-term prospectus of industrial impacts, with state sovereignty and Coastal Zone Management. There is no discussion of these regulatory issues.

Spatial distribution of species is not entirely understood in annual metrics, and the impairment of habitat by future anthropogenic stressors, are inconsistent with both (2) and (6) below. Northern hemisphere right whales under the auspices of (1) as they are listed as critically endangered.

**Section (2) of the Marine Mammal Protection Act of 1971 (16 USC Chapter 31)**

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect essential habitats, including the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;

(3) there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully;

(6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the carrying capacity of the habitat.

I do not support any of the planned options, as the reasons above state.

Regards-

Gregg W. Rosner  
W. Fenwick Island, DE

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Mon, Nov 24, 2014 at 10:33 AM  
Subject: Re: Comments to Mid-Atlantic Regional Ocean Action Plan Options  
To: Amy Trice <[atrice@oceanconservancy.org](mailto:atrice@oceanconservancy.org)>

Thank you for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Mon, Nov 24, 2014 at 10:15 AM, Amy Trice <[atrice@oceanconservancy.org](mailto:atrice@oceanconservancy.org)> wrote:

Dear Mid-Atlantic Regional Planning Body Co-Leads,

Thank you for the opportunity to provide comments to the Mid-Atlantic Regional Ocean Action Plan Options and Regional Ocean Assessment. Please see the attached letter from Ocean Conservancy.

Feel free to contact me with any questions.

Sincerely,

Amy Trice

Amy Trice  
Policy Analyst - CMSP  
1300 19th Street NW, 8th Floor  
Washington, DC 20036  
O: 202.280.6234  
[atrice@oceanconservancy.org](mailto:atrice@oceanconservancy.org)  
[Web](#) | [Facebook](#) | [Twitter](#)

1300 19th Street NW  
8th Floor  
Washington DC 20036



202.429.5609 Telephone  
202.872.0619 Facsimile  
[www.oceanconservancy.org](http://www.oceanconservancy.org)

November 21, 2014

Mr. Robert LaBelle  
Federal Co-Lead, Mid-Atlantic RPB  
Senior Advisor to the Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Ms. Gwynne Schultz  
State Co-Lead, Mid-Atlantic RPB  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

Ms. Kelsey Leonard  
Tribal Co-Lead, Mid-Atlantic Regional Planning Body  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

**RE: Mid-Atlantic Regional Planning Body Draft Regional Ocean Action Plan Options and Regional Ocean Assessment**

Dear Mid-Atlantic Regional Planning Body Co-Leads,

We are writing to express support of the Mid-Atlantic Regional Planning Body (RPB) and its efforts to move effectively forward with plan development. We are aware of the time and resource constraints the RPB is operating under and our top priority is to ensure a quality plan is completed by 2016 that results in improved outcomes for ocean managers and ocean stakeholders. We are committed to working with the RPB to ensure that the recommendations made here are consistent with that goal.

**Regional Ocean Assessment**

We view the Regional Ocean Assessment (ROA) as a collection and analysis of the best available data and information on the Mid-Atlantic's ocean health and resources, including current conditions and anticipated future trends and needs. The ROA should not be static, but be regularly updated as part of an iterative ocean planning process, with updates to the underlying data being made on an ongoing

basis. Ultimately, the ROA should provide region-wide context for decision making, including relevant species and ecosystem processes as well as human uses.

It is critical that the ROA include both spatial and non-spatial data. With respect to spatial data, the Mid-Atlantic Regional Council on the Ocean (MARCO) Data Portal should be the foundation on which the ROA is built, and the location where the most current data is stored and accessed to support informed decision making. The RPB should identify data gaps and prioritize filling those gaps based on the planning needs of the region on an ongoing basis. It is also important to include non-spatial data in the ROA, including but not limited to needs and anticipated trends for important sectors. Currently, MARCO is conducting stakeholder outreach to ocean industry sectors to gather such information and make it available to the RPB. These informative discussions, involving the needs of ocean users, should be reflected in the assessment through non-spatial data. Traditional and cultural knowledge should also be sought and included in the ROA, as it is often this knowledge that provides historical information potentially lost from simply collecting spatial data.

### **Regional Ocean Action Plan Options**

Below, we detail our interpretation and views of the options presented for public comment. These comments reflect our analysis of the options as well as information gleaned from the listening sessions.

- *Option A, Issue-Triggered Coordination Process:* Option A is currently the status quo for ocean management. We hope the RPB will choose to move past the case-by-case assessment and management approach into broad, interjurisdictional coordination.
- *Option B, Compatibility Assessment:* We agree a compatibility assessment is a useful decision support tool that the RPB should pursue, but this assessment should be part of any ocean plan rather than a standalone option.
- *Option C, Targeted Coordination by Issue or Geography:* The implementation tools this option appears to consider would be beneficial for achieving lasting durability of the plan. Obtaining specific interjurisdictional coordination commitments from agencies would prove key in ensuring certainty for ocean users with regards to permitting and leasing. However, we are confused as to why the application of these implementation tools would be limited to targeted issues or geographies. Once developed, the implementation tools necessary to ensure coordination on targeted issues or geographies such as interagency Memorandum of Agreements, agreements on best practices for permitting, NEPA review, or others like those listed in the Northeast RPB “Options for Effective Decision Making” document would be easily applicable across nearly all federal decision making. We see no reason to artificially limit these implementation tools’ application and benefits to a limited set of issues or places.
- *Option D, Compatible Use Areas:* This option calls for mapping of discrete areas; however, we instead hope the RPB will utilize the broader MARCO Data Portal mapping information to consider regional ocean uses more broadly in their decision making and agency agreements. We do agree that some areas need additional data or mapping, and urge the RPB to identify data gaps and especially analysis tools (e.g. EBM models, compatibility assessments) that would support improved understanding of potential compatibilities and conflicts among uses, especially in areas of particular interest such as those proposed to be mapped in this option.
- *Option E, Comprehensive Optimal Use Maps:* Option E seeks to encompass the entire region, which we support. However, the interagency coordination still seems to be conducted on a case-by-case basis. While we think an ocean plan should capture the entire region, we realize the time and resource constraints of identifying optimal uses for all areas. The RPB should take the necessary steps, however, to create a plan that strives toward ecosystem-based management (EBM) rather than lines on a map.



### **Key Elements of an Ocean Plan**

We encourage the RPB to pursue a plan that would contribute to the key outcomes stakeholders from all industries are seeking. Overall, enhancing interagency coordination and institutionalizing use of the ocean plan's data and guidance are of highest importance. The RPB member agencies must use plan data and guidance in their existing permitting and leasing processes; otherwise, it is unclear to what end the ocean planning process will serve. Integrating the plan into agency decision making will ensure its durability while giving ocean industry and stakeholders increased certainty. Furthermore, it will ensure the data and input stakeholders contributed in good faith (and with much effort) during the ocean planning process is taken into account for future permitting and leasing decisions.

We would like to emphasize five elements that we believe the RPB should focus particular attention while developing an ocean plan:

1. *Solid data and information that directly reflects stakeholder input and engagement.*
2. *Regional context.* Provide a plan that addresses the entire region and provides decision makers with the data, information, and analysis tools they need to reflect and adjust for the regional context and implications of their permitting decisions.
3. *Decision support tools.* Providing simplified, easy-to-use decision support tools is a critical element of the ocean plan. Decision support and data analysis tools that will help translate the vast amount of data and information collected in the planning process into the most usable and practical product for government decision makers are important. For example, tools should allow decision makers to use data and information to better design a potential project, making the necessary adjustments upfront rather than later realizing numerous conflicts with the environment and economy exist. Outside of the context of agencies responsible for managing threatened and endangered species, most government decision makers are responsible for evaluating a wide range of potentially conflicting interests, of which the environment is only one. The more comprehensive and integrated information is about areas that are particularly critical for the environment or human uses, the more useful (and used) the information will be. The compatibility assessment proposed in Option B is one example of this type of tool that we believe should be pursued.
4. *Healthy ecosystem and sustainable, productive ocean economy.* Principles of a healthy, resilient ecosystem should be the overarching goal including: native species diversity, habitat diversity and heterogeneity, populations of key species, and connectivity. If the RPB is to ensure the Healthy Ocean Ecosystem Goal identified in its framework is met, these principles should be explored through the lens of EBM and important ecological areas identified.
5. *Implementation framework.* The RPB should strive to create a set of implementation tools to ensure the information and recommendations of the ocean plan are incorporated into government decision making in a practical and reliable way. These implementation tools must be incorporated in a way that stakeholders will be able to see actual changes in the way government agencies do business as a result of the ocean planning process. We believe the work that the Northeast RPB has already begun on this front provides a solid foundation that the Mid-Atlantic RPB should continue to build upon.

### **Ecosystem-Based Management (EBM)**

We support the long-term goal of achieving EBM and encourage the RPB to pursue both short and long-term objectives toward this goal. Ecosystem-based management, defined as "an integrated approach to

management that considers the entire ecosystem, including humans,”<sup>1</sup> is a long-term goal of ocean planning. The ocean plan should strive for EBM within a regional context for all ocean uses. This overall management approach is important to work towards and should be an explicit goal of the RPB, but we recognize it is likely not achievable by 2016. However, immediate steps can be taken to use an EBM approach for identifying important ecological areas.

We propose the RPB consider adopting steps to pursue EBM first in the limited context of identifying ecologically important areas from the ocean plan’s data sets. The current status quo takes a species-centric approach to identifying important ecological areas; in contrast, the RPB should seek to identify areas based on a broader set of ecosystem issues, thereby providing an enhanced perspective of what is likely important. For example, taking a more holistic view may not result in prioritization of places that are absolutely critical to one species of concern, yet would identify areas that as a whole are vital to ecosystem function, even if they are not the most important place to any individual species.

- *Recommended next steps:* To accomplish the long-term goal of identification of important ecological areas based on EBM, the RPB should consider taking the following practical steps:
  1. The RPB should convene a discussion on methodology with a range of experts. An initial meeting should involve experts in the methodologies of optimization software, decision support tools, and EBM while also including those familiar with current data sets available in the Mid-Atlantic. We are aware of optimization software and decision support tools currently in use such as Marxan, MarineMap (SeaSketch), Marine Planner, and other EBM models. Additionally, we understand there would need to be a related discussion on how the work product of this group would be incorporated into agency decision making, since the details of how this less familiar (than single species or habitats) data could or should be utilized by agencies has not yet been discussed.
  2. Once a methodology is decided upon, scientists familiar with Mid-Atlantic should be consulted to refine the method. Scientists with expertise in habitats, marine species, benthic ecology, and water chemistry can be contacted via email or phone individually to gather input.
  3. Once proposed options for important ecological areas are defined, it will be necessary to convene Mid-Atlantic scientists to propose important ecological areas to the RBP.

We thank you for your efforts to ensure a robust ocean plan. Ultimately, the RPB must seek to create an adaptive plan that establishes baselines, considers current and future planning needs, monitors progress over time, and assesses changes in ecosystems, sustainable development, and emerging technologies. Understanding current ocean needs while accounting for the uncertainty of future, new technologies and changing ecosystems is of vital importance to the success of the overall planning process. We look forward to working with you as the ocean plan progresses.

Sincerely,

Anne Merwin  
Director, Coastal and Marine Spatial Planning  
Ocean Conservancy

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<sup>1</sup> Scientific Consensus Statement on Marine Ecosystem-Based Management. 2005. Prepared by scientists and policy experts to provide information about coasts and oceans to U.S. policy-makers.

From: **MidAtlanticRPB, BOEM** <[boemmidatlanticrpb@boem.gov](mailto:boemmidatlanticrpb@boem.gov)>  
Date: Tue, Nov 25, 2014 at 7:48 AM  
Subject: Re: Comments from American Littoral Society on Draft MidA RPB Documents  
To: Sarah Winter <[Sarah@littoralsociety.org](mailto:Sarah@littoralsociety.org)>  
Cc: Tim Dillingham <[tim@littoralsociety.org](mailto:tim@littoralsociety.org)>

Thank you for participating in the public listening session in New Jersey, and for submitting comments on the Mid-Atlantic Regional Planning Body's draft documents. The MidA RPB will consider all comments received, and will post them on its website.

The MidA RPB will refine its ideas about an approach for the materials, informed by public input, and discuss these topics further during the RPB's next in-person meeting on January 21-22, 2015 in New York.

Please check the website (<http://www.boem.gov/Mid-Atlantic-Regional-Planning-Body/>) for additional information and updates.

On Mon, Nov 24, 2014 at 10:33 PM, Sarah Winter <[Sarah@littoralsociety.org](mailto:Sarah@littoralsociety.org)> wrote:  
Please find attached the final comments from the American Littoral Society on the recent draft RPB documents. We apologize for the late submission, but wanted to incorporate into our comments a few of the ideas discussed at the final listening session in New Jersey on December 18. Thank you for considering these comments.

Best Regards,  
Sarah Winter Whelan

Sarah Winter Whelan  
RMCP, American Littoral Society  
503.267.9577  
<http://www.littoralsociety.org>

Director  
Healthy Oceans Coalition  
[www.healthyoceanscoalition.org](http://www.healthyoceanscoalition.org)



# AMERICAN LITTORAL SOCIETY

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18 Hartshorne Drive, Suite 1, Highlands, NJ 07732-4033  
Phone: 732-291-0055 6 Fax: 732-291-3551 6 [www.littoralsociety.org](http://www.littoralsociety.org)

November 24, 2014

Mr. Robert LaBelle  
Senior Advisor to the Director  
Bureau of Ocean Energy Management  
U.S. Department of the Interior

Ms. Gwynne Schultz  
Senior Coastal and Ocean Policy Advisor  
Maryland Department of Natural Resources  
580 Taylor Avenue, E2  
Annapolis, Maryland 21401

Ms. Kelsey Leonard  
Shinnecock Indian Nation  
P.O. Box 5006  
Southampton, New York 11969

## **Re: Mid-Atlantic Regional Planning Body Comments**

Dear Mr. LaBelle, Ms. Schultz, and Ms. Leonard,

Thank you for providing this opportunity to comment on the Mid-Atlantic Regional Planning Body's (RPB) most recent set of draft documents,<sup>1</sup> including the in person opportunities during the RPB's fall 2014 listening sessions. The American Littoral Society (Society) appreciates the RPB's interest in hearing the suggestions and concerns of those attending the listening sessions. We attended the New Jersey session and found it to be incredibly informative and engaging and hope you will continue to provide these dialogue-based conversations throughout the RPB process.

The American Littoral Society is a national, membership based coastal conservation organization dedicated to promoting the study and conservation of marine life and its habitats. Since 1961 the Society has empowered people to care for the coast through advocacy, conservation, and education. The Society is based on Sandy Hook, New Jersey, with offices in Jamaica Bay and Delaware Bay. We believe our fifty years of connection to the Mid-Atlantic, its natural resources and coastal communities provides us with insights to share as the region's

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<sup>1</sup> Mid-Atlantic Regional Planning Body, Status of the Mid-Atlantic Regional Ocean Assessment (Assessment Status), Mid-Atlantic Regional Ocean Plan Options (ROAP Options), and the Interim Plan for Stakeholder Engagement (Interim Strategy) (October 2014), available at: <http://www.boem.gov/Environmental-Stewardship/Mid-Atlantic-Regional-Planning-Body/MidA-RPB-Materials.aspx>

ocean planning process begins. On behalf of our thousands of members based within the Mid-Atlantic, we offer these comments.

**I. The National Ocean Policy seeks to move our nation toward integrated coastal management and healthy ocean and coastal ecosystems through the principles of Ecosystem-Based Management (EBM) and Adaptive Management, which the Mid-Atlantic RPB must carry into its important work to protect and sustainably manage the region's ocean and coastal resources.**

On July 19, 2010, our nation established its first ever National Stewardship Policy (National Ocean Policy) to ensure that “the ocean, our coasts, and the Great Lakes are healthy and resilient, safe and productive, and understood and treasured so as to promote the well-being, prosperity, and security of present and future generations[.]”<sup>2</sup> The National Ocean Policy, spurred to completion by the Deepwater Horizon disaster, was the culmination of two blue ribbon bipartisan panels’ unanimous recommendations and the Interagency Ocean Policy Task Force’s in depth review of ocean policy and robust public engagement efforts.

At its core, the National Ocean Policy is about better coordination and collaboration between the numerous federal agencies with existing management authority over our nation’s ocean, coastal and Great Lakes resources to strengthen ocean governance and decision making that will ensure healthy, productive and resilient marine ecosystems for this and future generations. The NOP’s hallmark is to apply the principles of ecosystem based management, which integrates the “ecological, social, economic, commerce, health, and security goals” while recognizing “both that humans are key components of ecosystems and also that healthy ecosystems are essential to human welfare[.]”<sup>3</sup> The National Ocean Policy also seeks to integrate adaptive management “which calls for routine reassessment of management actions to allow for better informed and improved future decisions in a coordinated and collaborative approach”<sup>4</sup> into the decision-making of our coastal managers. By applying ecosystem based management and adaptive management, our Nation will “more effectively address the challenges facing the ocean, our coasts, and the Great Lakes and ensure their continued health for this and future generations.”<sup>5</sup>

These are the very tenants that the Mid-Atlantic Regional Planning Body *must* carry into its regional ocean planning process. We incorporate, by reference, the joint comment letter submitted by the Natural Resources Defense Council and signed by the American Littoral Society on November 20, 2014 that calls for the RPB’s Regional Ocean Assessment (ROA) to identify the Mid-Atlantic region’s important ecological areas (IEAs) and ensure the Regional Ocean Action Plan (ROAP) identifies the mechanisms the region’s federal, state, and tribal authorities have to protect these important places.

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<sup>2</sup> Exec. Order No. 13547, 75 Fed. Reg. 43,023 (July 19, 2010), *available at*: <http://www.whitehouse.gov/files/documents/2010stewardship-eo.pdf>.

<sup>3</sup> Interagency Ocean Policy Task Force, *Final Recommendations of the Interagency Ocean Policy Task Force* (Final Recommendations), p2, *available at*: <http://www.whitehouse.gov/administration/eop/oceans>.

<sup>4</sup> Final Recommendations at 2.

<sup>5</sup> *Id.*

**II. The RPB must continue to integrate the connection between the region’s bays and estuaries to open ocean waters, even within the RPB’s limited geographic focal area, by integrating in the information and management of these ecosystems into the regional ocean assessment.**

This will remain the American Littoral Society’s consistent recommendation to the RPB. The coastal bays and estuaries of the Mid-Atlantic are iconic natural resources known throughout the region as places to recreate, fish, boat and live. They are also economic drivers for much of the Mid-Atlantic states’ ocean economies. While the Mid-Atlantic RPB’s Framework keeps its geographic focus as “the ocean waters of the region”<sup>6</sup> we do appreciate that the final Framework recognizes the need for a more fluid relationship between the ecosystems in its promise to “draw connections and coordinate *closely* with entities responsible for the management and planning of the bay, estuarine, and coastal areas of the Mid-Atlantic for planning purposes”<sup>7</sup> especially where “ocean uses and natural resources have an interrelationship with coastal communities, bays, estuaries, and ports ...[.]”<sup>8</sup>

In reviewing the status of the regional ocean assessment document, we find a natural place for the RPB to ensure it draws the connections needed between the region’s ocean, coastal and estuarine waters by including information about the region’s coastal and estuarine waters in the Regional Ocean Assessment (ROA). Even though the region’s bays and estuaries may be out of the “planning area” for the RPB, they are ecosystems that can and should be part of the waters the RPB assesses, or “assessment area”, in its effort to ensure the uses and resources of these ecosystems are considered in the RPB’s ocean planning effort. For example, several of the species already identified in the outline for the Mid-Atlantic Regional Ocean Assessment document spend some part of their lives in coastal or estuarine waters, utilizing the region’s salt marshes, beaches and wetlands, including Atlantic Menhaden, River herring and all the bird species identified (American Oystercatcher, Marbled Godwit, Piping Plover, Red Knot, Roseate Tern).

In addition, we urge the RPB to continue its work on geographic coordination as this will underpin the rest of the RPB’s work to coordinate closely with the estuarine and coastal management bodies for the inevitable “interrelationship” between the uses and natural resources the RPB plans for and the region’s coastal communities, bays and estuaries. During the New Jersey listening session, the RPB’s presentation included a geographic coordination slide that was the RPB’s first public step to identify the regional coastal and estuarine management bodies. We understand that this graphic was not a final one, but ask that the RPB continue with this effort and provide more details on this slide on the RPB website, as well as the entire listening session presentation.

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<sup>6</sup> Mid-Atlantic Regional Planning Body, *Final Mid-Atlantic Regional Ocean Planning Framework* (Framework) (2014) p 4, available at: <http://www.boem.gov/Mid-Atlantic-Regional-Ocean-Planning-Framework/>.

<sup>7</sup> Framework at 4. (emphasis added)

<sup>8</sup> *Id.*

With healthier bays and estuaries, a healthier ocean and marine ecosystem will exist to support resilient coastal communities, fisheries and marine wildlife, and ocean economies. Integrating the knowledge of the region's bays and estuaries into the ROA and ensuring geographic coordination of management entities is an important piece for the RPB to continue working on as it undertakes its Regional Ocean Assessment and Regional Ocean Action Plan.

**III. The RPB should identify tangible stakeholder engagement strategies and increase transparency into RPB working groups to fulfill the promise of the Interim Stakeholder Engagement Strategy.**

Stakeholder engagement and public participation is crucial to successful marine planning. Every document tied to the National Ocean Policy highlights this fact. The *Final Recommendations of the Interagency Ocean Policy Task Force* emphasize the “importance of frequent and robust stakeholder, scientific and public engagement throughout the planning process.”<sup>9</sup> The *Final National Ocean Policy Implementation Plan* calls “robust stakeholder engagement and public participation ... essential to ensure that actions are based on a full understanding of the range of interests and interactions...[.]”<sup>10</sup> The National Ocean Council's *Marine Planning Handbook* confirms “engagement and substantive participation of stakeholders and the public” a “cornerstone of marine planning[.]”<sup>11</sup>

We thank the RPB for taking stakeholder engagement seriously and while creating a strategy may seem like a lot of planning for a planning process, without the public or stakeholders you jeopardize the integrity of the marine planning process. By planning for engagement and involvement you create an agreement between stakeholders and on how the RPB will engage and include the efforts of stakeholders. This reduces the likelihood of misunderstandings and paves the way toward truly collaborative relationships. A RPB and stakeholder relationship with mutual trust and respect is critical to ensure that Mid-Atlantic ocean planning is an inclusive, transparent, and engaged process: as stakeholders, whether we have management authority or not, we are all invested in the process and the enhanced outcomes we want to see stem from ocean planning.

We were therefore pleased to see a solid Interim Stakeholder Engagement Strategy. It has the components for robust stakeholder engagement and we now ask that the RPB move forward with identifying specific, tangible stakeholder engagement actions based on the options it has laid out in the Interim Strategy to engage stakeholders both prior to the January RPB meeting and in the months immediately following with eventual integration into the RPB's pending work plan. With the upcoming RPB meeting in January 2015, and big decisions to make, the RPB should be in full swing to engage stakeholders and utilize the Mid-Atlantic Regional Council on the Ocean's (MARCO) Stakeholder Liaison Committee (SLC) to ensure the RPB meeting has a robust, diverse stakeholder turnout.

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<sup>9</sup> Final Recommendations at 7-8.

<sup>10</sup> National Ocean Council, National Ocean Policy Implementation Plan (April 14, 2013), p. 23, *available at*: <http://www.whitehouse.gov/administration/eop/oceans/implementationplan>.

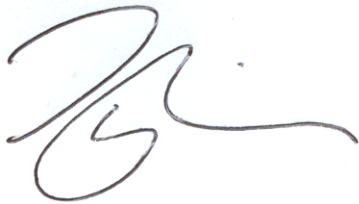
<sup>11</sup> National Ocean Council, Marine Planning Handbook (July 2013), p. 5, *available at*: [http://www.whitehouse.gov/sites/default/files/final\\_marine\\_planning\\_handbook.pdf](http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf).

We recommend that one very important and immediate stakeholder engagement action should be hosting a stakeholder forum similar to the one the Northeast RPB held in October of this year. A stakeholder forum will allow for the dialogue-based engagement necessary to truly utilize the experiences and knowledge of the region's diverse stakeholders and allow for real conversations among RPB members and stakeholders. If done with the support of the MARCO SLC, by utilizing this group's input and outreach capabilities to potential participants, the RPB could reach outside its existing stakeholder base to engage new industries, communities, and organizations who have until now been unsure how to engage. While it may not be feasible to achieve this prior to the RPB's January 2015 meeting, it does not make the utility of this type of engagement less timely or important.

A second way to immediately engage stakeholders is to open the RPB's several working groups to stakeholders. The RPB has promised transparency to stakeholders and that should include the work being carried out by the RPB working groups. We recommend that the RPB provide minutes or at least summaries from the existing working groups on the RPB website. The RPB should also consider having stakeholders attend and take part in working group discussions. By allowing stakeholders to follow and engage in the progress being made by working groups, you will more quickly educate stakeholders on the incremental steps being taken by the RPB instead of only being asked to respond to draft documents.

We appreciate the opportunity to provide these comments and look forward to working with the RPB as the ocean planning process moves forward to develop an ocean plan that protects, maintains and restores the Mid-Atlantic's vibrant and diverse natural resources.

Sincerely,

A handwritten signature in black ink, appearing to be 'TD', written in a cursive style.

Tim Dillingham  
Executive Director