

From: **MidAtlanticRPB, BOEM** <boemmidatlanticrpb@boem.gov>
Date: Tue, Nov 18, 2014 at 8:19 AM
Subject: Re: Comments on draft documents
To: 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> 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



MARYLAND COASTAL BAYS PROGRAM

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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 10th 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.”¹

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

¹ May 21, 2014. Mid-Atlantic Regional Ocean Planning Framework.

From: **MidAtlanticRPB, BOEM** <boemmidatlanticrpb@boem.gov>
Date: Wed, Nov 19, 2014 at 9:48 AM
Subject: Re: comments on planning documents
To: Carolyn Cummins <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.

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On Tue, Nov 18, 2014 at 5:16 PM, Carolyn Cummins <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 10th 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>
Date: Thu, Nov 20, 2014 at 4:40 PM
Subject: Re: Surfrider Mid-Atlantic Comments
To: Matt Gove <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.

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

Matt Gove
Mid-Atlantic Policy Manager
Surfrider Foundation
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 24th, 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>
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

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 4:57 PM, <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 if you have any questions.

Sincerely,
Brent

Brent Greenfield
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November 20, 2014

Mr. Robert LaBelle
Mid-Atlantic Regional Planning Body Federal Co-Lead
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Ms. Gwynne Schultz
Mid-Atlantic Regional Planning Body State Co-Lead
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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

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,¹ 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

¹ 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.

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.² 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.³

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,"⁴ 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.

² 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, 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, 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, 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.").

³ 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...").

⁴ 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,"⁵ 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.

⁵ 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

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.⁶ 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."⁷ 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.⁸

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.

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

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

⁸ 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 move 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.⁹

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.¹⁰

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.

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

¹⁰ 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.¹¹

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.¹²

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

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

¹² 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.¹³

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.¹⁴

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

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

¹⁴ 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.*¹⁵

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.¹⁶

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

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

¹⁶ 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.*¹⁷

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.”¹⁸

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.¹⁹ 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,

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

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

¹⁹ 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 Authorities²⁰

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

²⁰ 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.²¹ 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.²²

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."²³

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.²⁴ 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.

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

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

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

²⁴ 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?²⁵

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.²⁶ 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:

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

²⁶ 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.²⁷

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

²⁷ 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 2015.²⁸

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

²⁸ 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.²⁹

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.³⁰ 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.³¹

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,

²⁹ 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/>.

³⁰ 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/>.

³¹ 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."³²

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.³³ 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,³⁴ 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

³² 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/>.

³³ 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.

³⁴ 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>
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>
Cc: Tim Dillingham <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> 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
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AMERICAN LITTORAL SOCIETY

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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,¹ 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

¹ 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[.]”² 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[.]”³ 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”⁴ 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.”⁵

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.

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

³ 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>.

⁴ Final Recommendations at 2.

⁵ *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”⁶ 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”⁷ especially where “ocean uses and natural resources have an interrelationship with coastal communities, bays, estuaries, and ports ...[.]”⁸

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.

⁶ 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/>.

⁷ Framework at 4. (emphasis added)

⁸ *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.”⁹ 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...[.]”¹⁰ The National Ocean Council's *Marine Planning Handbook* confirms “engagement and substantive participation of stakeholders and the public” a “cornerstone of marine planning[.]”¹¹

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.

⁹ Final Recommendations at 7-8.

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

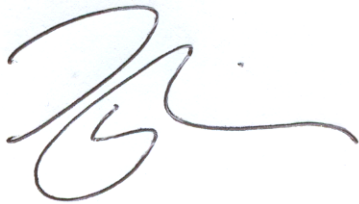
¹¹ National Ocean Council, Marine Planning Handbook (July 2013), p. 5, *available at*: http://www.whitehouse.gov/sites/default/files/final_marine_planning_handbook.pdf.

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', with a long horizontal flourish extending to the right.

Tim Dillingham
Executive Director