OCEAN PLANNING IN THE NORTHEAST

Northeast Regional Planning Body

Meeting Materials

Portland, Maine

November 16-17, 2015

This document is formatted for two-sided printing.

OCEAN PLANNING IN THE NORTHEAST

Northeast Regional Ocean Planning Materials

Northeast Regional Planning Body Meeting | *November 16-17, 2015*

CONTENTS

Additional materials

NOTE: Additional documents will be posted to the meeting website (http://neoceanplanning.org/events/november-2015-rpb-meeting/) and printed for the meeting. These materials will include:

- Northeast ocean plan outline Chapter 3 addendum
- Draft components of important ecological areas
- Best practices for agency coordination (to be included in Chapter 4)
- Approaches to plan content for Chapters 4 and 5
- Northeast ocean plan outline Chapter 5 addendum

Meeting agenda

OCEAN PLANNING IN THE NORTHEAST

Northeast Regional Planning Body Meeting

Date November 16-17, 2015
Location Westin Portland Harborview, East Grand Ballroom
157 High Street, Portland, Maine

Meeting Agenda and Objectives

Meeting Objectives

- Discuss updates on Northeast Regional Planning Body (NE RPB) activities and progress since June 2015, including progress on data and agency guidance (included in Chapter 3) and a review of updated draft plan outline and timeline.
- Review options and discuss next steps for plan performance and ocean health indicators (Chapter 4 Section 3 of the draft plan outline).
- Review options and discuss next steps for science and research priorities, (Chapter 5 of the draft plan outline).
- Review options and discuss future responsibilities and commitments (Chapter 4 Section 2 of the draft plan outline).
- Provide opportunities for public input about the topics being considered by the NE RPB.

Monday, November 16, 2015

8:30 am **Continental breakfast (for RPB members only)**
Location: Hawthorne Room

9:00 am **Public registration**

9:30 am **Tribal blessing**
Richard Getchell, All Nations Consulting; and Former Tribal Chief, Aroostook Band of Micmacs and NE RPB Tribal Co-Lead

9:35 am **Introductions and agenda review**
Laura Cantral, Meridian Institute

9:45 am **Welcome and remarks from National Ocean Council Director**
Beth Kerttula, National Ocean Council

10:00 am **Opening remarks, overview of NE RPB progress and timeline**
NE RPB Co-Leads will provide brief opening remarks, share updates about progress since the last NE RPB meeting and review the NE RPB timeline.

- *Grover Fugate, Rhode Island Coastal Resource Management Council and NE RPB State Co-Lead*
- *Richard Getchell, All Nations Consulting; and Former Tribal Chief, Aroostook Band of Micmacs and NE RPB Tribal Co-Lead*
- *Betsy Nicholson, National Oceanic and Atmospheric Administration (NOAA) and NE RPB Federal Co-Lead*

10:15 am **Review and updates on draft NE Ocean Plan outline**
Nick Napoli, Northeast Regional Ocean Council (NROC)
Staff will present the plan outline and explain how this meeting's presentations and discussions will inform the development of the plan. RPB discussion will follow.

10:45 am **Update on the development of Chapter 3: The Regulatory Environment and Management**

Update and discussion of progress on the data and agency guidance to be included in Chapter 3, *The Regulatory Environment and Management Actions*, of the plan. RPB discussion will follow.

- Update on the status of Chapter 3, *Nick Napoli, NROC*
- Marine life characterization, *Pat Halpin, Nicholas School of the Environment & Duke Marine Lab, Duke University*
- EBM Work Group update, *Emily Shumchenia, NROC*

12:00 pm **Public comment**
Interested individuals will be provided the opportunity to offer formal public comment and encouraged to provide input on the topics currently being discussed by the NE RPB. Depending on how many individuals would like to comment, the time limit will be between 2-3 minutes. A sign-up list and guidelines are available at the meeting registration table.

12:30 pm **Lunch**
(Lunch available for RPB members in the Hawthorne Room)

1:30 pm **Other updates on recent activities and projects**
During this session project leads will provide updates on their work, followed by brief RPB discussion.

- Best practices for agency coordination, *Deerin Babb-Brott, SeaPlan*
- Climate Change Impacts on the Ocean Environment, *Kathy Mills, Gulf of Maine Research Institute (GMRI)*

2:15 pm **NE RPB discussion on Chapter 4 Section 3: Monitoring and Evaluation**
John Weber and Nick Napoli, NROC
Staff will present an approach to content for the plan's section regarding monitoring and evaluation of plan performance and for ecosystem health. This will be followed by NE RPB discussion.

3:15 pm **Break**

3:30 pm **Public comment**
Interested individuals will be provided the opportunity to offer formal public comment and encouraged to provide input on the topics currently being discussed by the NE RPB. Depending on how many individuals would like to comment, the time limit will be between 2-3 minutes. A sign-up list and guidelines are available at the meeting registration table.

4:15 pm **RPB decision on content for Chapter 4 Section 3: Monitoring and Evaluation**
The NE RPB will decide on the approach to content for Chapter 4, Section 3.

5:00 pm **Summary of day 1**
Laura Cantral, Meridian Institute

5:15 pm **Adjourn**

November 17, 2015

8:00 am **Continental breakfast (for members only)**
Location: Hawthorne Room

8:30 am **Public registration**

9:00 am **Welcome back, review of day 1 outcomes, and review of day 2 agenda**
Laura Cantral, Meridian Institute

9:15 am **NE RPB discussion on a framework for Chapter 5: Science and Research Priorities**
Nick Napoli and Emily Shumchenia, NROC
Staff will present on the status and a proposed framework for Chapter 5 of the Northeast Ocean Plan, *Science and Research Priorities.* NE RPB discussion will follow.

10:15 am **NE RPB discussion on Chapter 4 Section 2: Plan Implementation Responsibilities and Commitments**
Betsy Nicholson, NOAA and NE RPB Federal Co-Lead
The NE RPB will have a preliminary discussion on how the Northeast Ocean Plan will be implemented and the role of the NE RPB following the finalization of the Northeast Ocean Plan in 2016.

11:15 am **Public comment**
Interested individuals will be provided the opportunity to offer formal public comment and encouraged to provide input on the topics currently being discussed by the NE RPB. Depending on how many individuals would like to comment, the time limit will be between 2-3 minutes. A sign-up list and guidelines are available at the meeting registration table.

12:00 pm **Lunch**
(Lunch available for RPB members in the Hawthorne Room)

1:00 pm **Continue NE RPB discussion and decision on content for science and research priorities and plan implementation**

2:00 pm **Review timeline and closing remarks**
NE RPB co-leads

2:15 pm **Summary and next steps**
Laura Cantral, Meridian Institute

2:30 pm **Adjourn**

Document 2.1
Membership roster

OCEAN PLANNING IN THE NORTHEAST

Northeast Regional Planning Body Membership Roster

States

Connecticut

- Brian Thompson, Director, Office of Long Island Sound Program, Department of Environmental Protection, Brian.Thompson@ct.gov
- Susan Whalen, Deputy Commissioner, Department of Energy and Environmental Protection, Susan.Whalen@ct.gov

Maine

- Patrick Keliher, Commissioner, Department of Marine Resources, Patrick.Keliher@maine.gov
- Walt Whitcomb, Commissioner, Department of Agriculture, Conservation and Forestry, walt.whitcomb@maine.gov

Massachusetts

- Bruce Carlisle, Director, Executive Office of Energy and Environmental Affairs/Coastal Zone Management, bruce.carlisle@state.ma.us
- Kathryn Ford, Habitat Program Manager , Division of Marine Fisheries, kathryn.ford@state.ma.us

New Hampshire

- Thomas Burack, Commissioner, Department of Environmental Services, thomas.burack@des.nh.gov
- Glenn Normandeau, Executive Director, Department of Fish and Game, glenn.normandeau@wildlife.nh.gov

Rhode Island

- Grover Fugate (State Co-Lead), Executive Director, Coastal Resource Management Council, gfugate@crmc.ri.gov
- Janet Coit, Director, Department of Environmental Management, Janet.Coit@dem.ri.gov

Vermont

- Joseph Roman, PhD, Research Professor, University of Vermont, romanjoe@gmail.com

Federal Agencies

Joint Chiefs of Staff

- Joe Atangan, Senior Scientist, U.S. Navy Fleet Forces Command, joe.atangan@navy.mil

U.S. Department of Agriculture

- Christine Clarke, State Conservationist, Natural Resource Conservation Service, christine.clarke@ma.usda.gov

U.S. Department of Commerce

- Betsy Nicholson (Federal Co-Lead), Northeast Regional Lead, National Oceanic and Atmospheric Administration, betsy.nicholson@noaa.gov

U.S. Department of Defense

- Christopher Tompsett, Environmental Review Board Coordinator, Environmental Division, U.S. Navy, christopher.tompsett@navy.mil

U.S. Department of Energy

- Patrick Gilman, Wind Energy Deployment Manager, Office of Energy Efficiency and Renewable Energy, patrick.gilman@ee.doe.gov

U.S. Department of Homeland Security

- Dan Hubbard, Maritime Energy Program Specialist, First District U.S. Coast Guard, daniel.l.hubbard@uscg.mil

U.S. Department of the Interior

- Bob LaBelle, Senior Advisor to the Director, Bureau of Ocean Energy Management, Robert.LaBelle@boem.gov

U.S. Department of Transportation

- Jeffrey Flumignan, Director, North Atlantic Gateway Office, Maritime Administration, jeffrey.flumignan@dot.gov

U.S. Environmental Protection Agency

- Mel Coté, Manager, Office of Ecosystem Protection, Ocean and Coastal Protection Unit, Region 1, Cote.Mel@epamail.epa.gov

Federal Energy Regulatory Commission (Point of Contact)

- Stephen Bowler, Office of Energy Projects, stephen.bowler@ferc.gov
- David Swearingen, Office of Energy Projects, david.swearingen@ferc.gov

New England Fishery Management Council

- Douglas Grout, Chief of Marine Fisheries, New Hampshire Fish and Game, Douglas.Grout@wildlife.nh.gov

---

Tribes

Aroostook Band of Micmacs/All Nations Consulting

- Richard Getchell (Tribal Co-Lead), Tribal Outreach Coordinator and Former Tribal Chief, rick@allnationsgs.com

Houlton Band of Maliseet Indians

- Sharri Venno, Environmental Planner, envplanner@maliseets.com

Mashantucket Pequot Tribal Nation

- To be determined

Mashpee Wampanoag Tribal Council

- Chuckie Green, Natural Resources Assistant Director, cgreen1@mwtribe.com

Mohegan Indian Tribe of Connecticut

- Jean McInnis, Environmental Protection Administrator, jmcinnis@moheganmail.com

Passamaquoddy Tribe - Indian Township Reservation

- To be determined

Passamaquoddy Tribe - Pleasant Point Reservation

- Vera Francis, Tribal Community Planner, verafrancis13@gmail.com

Penobscot Indian Nation

- To be determined

Narragansett Indian Tribe of Rhode Island

- Doug Harris, Deputy Tribal Historic Preservation Officer/Preservationist for Ceremonial Landscapes, dhnithpo@gmail.com

Wampanoag Tribe of Gay Head (Aquinnah)

- Elizabeth James-Perry, Tribal Cultural Resource Monitor, elizabeth@wampanoagtribe.net

Ex-Officio Members

New York

- Greg Capobianco, Division of Coastal Resources, New York Department of State, gregory.capobianco@dos.ny.gov

Canada

- Glen Herbert, Fisheries and Oceans Canada, Maritime Region, glen.herbert@dfo-mpo.gc.ca

Document 2.2
Participant list

OCEAN PLANNING IN THE NORTHEAST

Regional Planning Body Meeting Participant List

November 16-17, 2015 • Westin Portland Harborview, Portland, Maine

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Regional Planning Body Members and Alternates

Federal Agencies

Joe Atangan
Physical Scientist
U.S. Navy
e-mail : joe.atangan@navy.mil

Mel Coté
Chief, Ocean and Coastal Protection Section
U.S. Environmental Protection Agency
e-mail : Cote.Mel@epamail.epa.gov

Michele DesAutels *(alternate)*
Coastal Marine Spatial Planning Specialist
U.S. Coast Guard
e-mail : michele.e.desautels@uscg.mil

Luke Feinberg *(alternate)*
Environmental Policy Specialist
Department of Energy
U.S. Department of Energy
e-mail : lucas.feinberg@ee.doe.gov

Jeffrey Flumignan
Director, North Atlantic Gatewayn Office
Maritime Administration
U.S. Department of Transportation
e-mail : jeffrey.flumignan@dot.gov

Juan Hernandez *(alternate)*
State Conservationist, Maine
Natural Resources Conservation Service
U.S. Department of Agriculture
e-mail : juan.hernandez@me.usda.gov

Bob LaBelle
Senior Advisor to the Director
Bureau of Ocean and Energy Management
U.S. Department of the Interior
e-mail : Robert.LaBelle@boem.gov

Betsy Nicholson *(Federal Co-Lead)*
Northeast Regional Lead
National Ocean Service
National Oceanic and Atmospheric Administration
e-mail : betsy.nicholson@noaa.gov

Christopher Tompsett
Senior Environmental Planner
Naval Undersea Warfare Center Division
U.S. Navy
e-mail : christopher.tompsett@navy.mil

New England Fishery Management Council

Douglas Grout
Member, New England Fishery Management Council and Chief of Marine Fisheries
State of New Hampshire
e-mail : Douglas.Grout@wildlife.nh.gov

States

Robert Ballou *(alternate)*
Assistant to the Director
Department of Environmental Management
State of Rhode Island
e-mail : robert.ballou@dem.ri.gov

Bruce Carlisle
Director
Executive Office of Energy and Environmental Affairs/Massachusetts Coastal Zone Management
State of Massachusetts
e-mail : bruce.carlisle@state.ma.us

Ted Diers *(alternate)*
Watershed Management Bureau Administrator
Department of Environmental Services
State of New Hampshire
e-mail : ted.diers@des.nh.gov

Kathryn Ford
Habitat Program Manager
Division of Marine Fisheries
State of Massachusetts
e-mail : kathryn.ford@state.ma.us

Grover Fugate *(State Co-Lead)*
Executive Director
Coastal Resources Management Council
State of Rhode Island
e-mail : gfugate@crmc.ri.gov

Kathleen Leyden *(alternate)*
Director, Maine Coastal Program
Department of Agriculture, Conservation and Forestry
State of Maine
e-mail : kathleen.leyden@maine.gov

Meredith Mendelson *(alternate)*
Deputy Commissioner
Department of Marine Resources
State of Maine
e-mail : meredith.mendelson@maine.gov

Cheri Patterson *(alternate)*
Supervisor, Marine Resources Program
Fish and Game Commission
State of New Hampshire
e-mail : cheri.patterson@wildlife.nh.gov

David Pierce
Director
Division of Marine Fisheries
State of Massachusetts
e-mail : david.pierce@state.ma.us

Brian Thompson
Director, Office of Long Island Sound Programs
Department of Environmental Protection
State of Connecticut
e-mail : Brian.Thompson@ct.gov; brian.thompson@po.state.ct.us

Susan Whalen
Deputy Commissioner
Department of Energy and Environmental Protection
State of Connecticut
e-mail : Susan.Whalen@ct.gov

Tribal

Richard Getchell *(Tribal Co-Lead)*
Former Tribal Chief, Aroostook Band of Micmacs
All Nations Consulting
e-mail : rick@allnationsgs.com

Chuckie Green
Natural Resources Assistant Director
Mashpee Wampanoag Tribal Council
e-mail : cgreen@mwtribe.com

Jonathan Perry
Councilman
Wampanoag Tribe of Gay Head (Aquinnah)
e-mail : jonathan@wampanoagtribe.net

Sharri Venno
Environmental Planner
Houlton Band of Maliseet Indians
e-mail : envplanner@maliseets.com

Public Participants (as of 11/04/2015)

Mark Alexander
Member, New England Fishery Management Council
State of Connecticut
e-mail : mark.alexander@ct.gov

Aslaug Asgeirsdottir
Professor
Bates College
e-mail : aasgeirs@bates.edu

Deerin Babb-Brott
Senior Partner
SeaPlan
e-mail : dbabb-brott@seaplan.org

Eva Barnett
Outreach Associate
Green Fire Productions
e-mail : films@greenfireproductions.org

Becky Bartovics
Chapter Co-Chair
Maine Sierra Club
e-mail : bartovi@earthlink.net

Nick Battista
Marine Programs Director
Island Institute
e-mail : nbattista@islandinstitute.org

Sarah Bowman
Marine Mammal Specialist
Ecology and Environment, Inc.
e-mail : sbowman@ene.com

Priscilla Brooks
Vice President and Director of Ocean Conservation
Conservation Law Foundation
e-mail : pbrooks@clf.org

Aimee Bushman
Ocean Planning Outreach Manager
Conservation Law Foundation
e-mail : abushman@clf.org

Rebecca Clark Uchenna
Marine Programs Associate
Island Institute
e-mail : rclark@islandinstitute.org

Jesse Cleary
Duke University
e-mail : jesse.cleary@duke.edu

Michael Conathan
Director of Ocean Policy
Center for American Progress
e-mail : mconathan@americanprogress.org

Rip Cunningham
Chief Operating Officer
Cunningham Consulting
e-mail : ripcham@gmail.com

Corrie Curtice
Research Analyst
Duke University
e-mail : corrie.curtice@duke.edu

Jessica Damon
Naturalist and Environmental Consultant
Odyssey Whale Watch
e-mail : Damonjessica@yahoo.com

Brian Dresser
Senior Fisheries Biologist
Tetra Tech, Inc.
e-mail : brian.dresser@tetratech.com

Luke Fairbanks
Postdoctoral Associate
Duke University
e-mail : lwf3@duke.edu

Jennifer Felt
Ocean Campaign Director
Conservation Law Foundation
e-mail : jfelt@clf.org

Aria Finkelstein
PhD Researcher
Massachusetts Institute of Technology
e-mail : ariaritz@mit.edu

William Franks
Chief Executive Officer
IPRE LLC
e-mail : billfranks43@hotmail.com

Clark Freise
Assistant Commissioner
Department of Environmental Services
State of New Hampshire
e-mail : clark.freise@des.nh.gov

Melissa Gates
Northeast Regional Coordinator
Surfrider Foundation
e-mail : mgates@surfrider.org

Brent Greenfield
Executive Director
National Ocean Policy Coalition
e-mail : brent.greenfield@oceanpolicy.com

Patrick Halpin
Associate Professor of Marine Geospatial Ecology
Duke University
e-mail : phalpin@duke.edu

Amber Hewett
Northeast Climate Program Assistant
National Wildlife Federation
e-mail : hewetta@nwf.org

Molly Holt
Attorney-Advisor
National Oceanic and Atmospheric Administration
e-mail : molly.holt@noaa.gov

William Hubbard
Director of Marine Sciences
Coastal America Foundation
e-mail : William.A.Hubbard5.civ@mail.mil

Tricia Jedele
Vice President and Director of Rhode Island Advocacy Center
Conservation Law Foundation
e-mail : tjedele@clf.org

Jerry Keefe
OCP Unit Chief (Acting)
U.S. Environmental Protection Agency
e-mail : keefe.jerry@epa.gov

Jim Kendall
Consultant
New Bedford Seafood Consulting
e-mail : nbsc@comcast.net

Beth Kerttula
Director
National Ocean Council
e-mail : Elizabeth_J_Kerttula@ostp.eop.gov

Meghan Lapp
Fisheries Liaison
Seafreeze Ltd
e-mail : Meghan@seafreezeltd.com

Heather Leslie
Director, Darling Marine Center
University of Maine
e-mail : heather.leslie@maine.edu

Scott Libby
Senior Research Scientist
Battelle
e-mail : libby@battelle.org

Kate Longley-Wood
Project Manager
Sea Plan
e-mail : klongley@seaplan.org

Regina Lyons
Biologist, Region 1
U.S. Environmental Protection Agency
e-mail : lyons.regina@epamail.epa.gov

Christopher McGuire
Marine Program Director
The Nature Conservancy
e-mail : cmcguire@tnc.org

Anne Merwin
Director of Coastal and Marine Spatial Planning
Ocean Conservancy
e-mail : amerwin@oceanconservancy.org

Kathy Mills
Associate Research Scientist
Gulf of Maine Research Institute
e-mail : kmills@gmri.org

Christine Mintz
Natural Resource Specialist, Environmental Planning Branch
U.S. Navy
e-mail : christine.mintz@navy.mil

Ivy Mlsna
ORISE Fellow
U.S. Environmental Protection Agency
e-mail : mlsna.ivy@epa.gov

Kate Morrison
Executive Director
Mid-Atlantic Regional Council on the Ocean (MARCO)
e-mail : kmorrison@midatlanticocean.org

Richard Nelson
Captain
F/V Tescadero
e-mail : fvpescadero@yahoo.com

Valerie Nelson
Director
Water Alliance
e-mail : valerie.i.nelson@gmail.com

Emily Norton
Coastal Management Fellow
State of Maine
e-mail : emily.norton@maine.gov

Kris Ohleth
Environmental Specialist
Ecology and Environment, Inc.
e-mail : kohleth@ene.com

John Pappalardo
Chief Executive Officer
Cape Cod Commercial Fishermen's Alliance
e-mail : john@capecodfishermen.org

Tom Robben
Research Committee Chair
COA
e-mail : robben99@gmail.com:

Jennifer Seavey
Executive Director
Shoals Marine Lab
e-mail : jennifer.seavey@unh.edu

John Spritz
Manager
Growing Portland
e-mail : jspritz@maine.rr.com

Jeff Thaler
Visiting Professor of Energy Law and Policy
School of Economics and Schools of Law
University of Maine
e-mail : jeffrey.thaler@maine.edu

Amy Trice
Policy Analyst
Ocean Conservancy
e-mail : atrice@oceanconservancy.org

Jenna Valente
Healthy Oceans Coalition Coordinator
American Littoral Society
e-mail : j.valente@littoralsociety.org

Prassede Vella
Ocean Management Analyst
Coastal Zone Management
State of Massachusetts
e-mail : prassede.vella@state.ma.us

Lori Watson
Environmentalist
e-mail : houseofwatson2@gmail.com

John Williamson
Captain
Sea Keeper Fishery Consulting
e-mail : john@seakeeper.org

Sarah Wise
Researcher
Rutgers University
e-mail : swise888@gmail.com

Support Staff

Laura Cantral
Partner
Meridian Institute
e-mail : lcantral@merid.org

Jeana Connaughton
Project Coordinator
Meridian Institute
e-mail : jeconnaughton@merid.org

Katie Lund
Regional Planning Body Executive Secretary
Northeast Regional Ocean Council
e-mail : klund@northeastoceancouncil.org

Nick Napoli
Ocean Planning Project Manager
Northeast Regional Ocean Council
e-mail : nnapoli@northeastoceancouncil.org

Robyn Paulekas
Mediator and Program Manager
Meridian Institute
e-mail : rpaulekas@merid.org

Kara Runsten
Project Assistant
Meridian Institute
e-mail : krunsten@merid.org

Emily Shumchenia
Contractor
Northeast Region Ocean Council
e-mail : emily.shumchenia@gmail.com

John Weber
Ocean Planning Director
Northeast Regional Ocean Council
e-mail : jweber@northeastoceancouncil.org

Document 3.1
Draft Northeast ocean plan development timeline

Northeast Regional Planning Body

Draft Northeast Ocean Plan Development Timeline

Note: schedule is approximate and will be modified as milestones are achieved; the exact timing of activities will evolve.

Activities	2015					2016									
A. Draft Northeast Ocean Plan	July Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct
1. Drafting Sections 1 & 2 of NE Plan and related Agency Guidance															
2. EBM Work Group meetings		9/30													
3. Stakeholder Forum			10/20												
4. RPB Meeting				11/16 11/17											
5. Complete Draft NE Plan and Agency Guidance															
6. RPB internal review of Draft NE Plan and Agency Guidance															
7. RPB meeting and public release of Draft NE Ocean Plan and Agency Guidance															
B. Public Comment and Final NE Plan															
1. Public meetings and comment (45 days)															
2. Plan revisions and response to comment															
3. RPB internal review of Final NE Plan and Agency Guidance															
4. RPB meeting and submission of plan to NOC															
5. NOC/Agency review, concurrence and adoption of NE Plan and Agency Guidance															

Document 3.2
Draft Northeast ocean plan outline

Northeast Ocean Plan Outline

November 2015 Draft

Chapter 1. The New England Offshore Environment and the Need for Ocean Planning

This chapter will highlight the uniqueness and importance of New England's coast and ocean, summarize related social, economic and environmental conditions and trends (derived from the baseline assessment), and describe important regional issues. It will also briefly describe current planning and management programs and the need for regional ocean planning.

Chapter 2. Ocean Planning in New England

2.1 Ocean Planning Process

This will be a summary of the ocean planning process, including science integration, public engagement and other RPB related activities in each phase of the process. It will include references to documents in the appendix and/or www.neoceanplanning.org for more information.

2.1.1 National Ocean Policy

2.1.2 Initial Outreach and Establishment of the Northeast Regional Planning Body

2.1.3 Goal Setting and Work Plan Development

2.1.4 Draft and Final Plan

2.2 Ocean Planning Goals and the Ocean Plan

This section will describe how the Northeast Ocean Plan will address key themes from public input and will advance the three goals of Healthy Ocean and Coastal Ecosystems, Effective Decision Making, and Compatibility among Past, Current and Future Ocean Uses by guiding and informing agency decision making. It will also include a brief description of how the rest of the plan is organized and how it will be used.

Chapter 3. The Regulatory Environment and Management Actions

3.1 Regulatory Context and Primary Legal Authorities

This section will briefly summarize each of the primary regulatory authorities that are used to manage marine resources and human activities (2-3 sentences for most with a reference to the legal authority). It will provide context for the management actions and interagency coordination by clarifying typical agency roles in the regulatory process.

3.1.1 National Environmental Policy Act
3.1.2 Rivers and Harbors Act, Section 10
3.1.3 Clean Water Act, Section 404
3.1.4 Outer Continental Shelf Lands Act
3.1.5 Energy Policy Act
3.1.6 Deepwater Port Act
3.1.7 Endangered Species Act
3.1.8 Marine Mammal Protection Act
3.1.9 Migratory Bird Treaty Act
3.1.10 National Historic Preservation Act
3.1.11 Magnuson-Stevens Act
3.1.12 Ports and Waterways Safety Act
3.1.13 National Marine Sanctuaries Act
3.1.14 Coastal Zone Management Act

Additional authorities will be included as Chapter 3 is developed

3.2 Natural and Cultural Resources

This section will describe the management application of ocean plan information and related agency coordination activities that will be implemented under existing authorities to achieve ocean planning goals.

3.2.1 Marine Mammals and Sea Turtles
3.2.2 Birds
3.2.3 Fish
3.2.4 Habitat and Important Ecological Areas
3.2.5 Restoration
3.2.6 Historic and Cultural Resources

For each section:

A. Overview
B. Ocean Plan Maps and Data
C. Description of how relevant agencies intend to use ocean plan data in existing regulatory and management programs
D. Additional information sources and existing management programs
E. Long term maintenance of ocean plan maps and data, including brief mention of science priorities to be further detailed in Section 5
F. Other related RPB agency initiatives and coordination activities

3.3 Human Activities

This section will describe the management application of ocean plan information and related agency coordination activities that will be implemented under existing authorities to achieve ocean planning goals.

3.3.1 Marine Transportation
3.3.2 National Security
3.3.3 Commercial Fishing
3.3.4 Recreational Fishing
3.3.5 Recreation
3.3.6 Energy and Infrastructure
3.3.7 Aquaculture
3.3.8 Sand and Gravel

For each section:

A. Overview
B. Ocean Plan Maps and Data
C. Description of how relevant agencies intend to use ocean plan data in existing regulatory and management programs
D. Additional information sources and existing management programs
E. Long term maintenance of ocean plan maps and data, including brief mention of science priorities to be further detailed in Section 5
F. Other related RPB agency initiatives and coordination activities

3.4 Ecosystem Based Management

This section will describe progress towards charting an ecosystem based approach to management, including agency use of plan information and analyses into decision making under existing authorities and the actions the agencies will take to advance EBM and related science. Potential outline:

A. Overview
B. Definition of Ecosystem Based Management
C. Ecosystem Based Management Work Group
D. Progress defining and identifying important ecological areas
E. Agency use of information in Sections 3.2 and 3.3 to advance EBM under existing authorities
F. Progress and future priorities associated with other aspects of EBM
   - Mapping stressors associated with human activities
   - Assessing vulnerability of ecosystem components to different stressors
   - Determining cumulative impacts
   - Monitoring ecosystem components

Chapter 4. Ocean Plan Implementation

This chapter will describe how the RPB intends to implement the ocean plan, including enhancements to agency practices, other responsibilities and commitments, and plan evaluation.

4.1 Intergovernmental Coordination

This section will describe the specific coordination activities that will be undertaken to implement the ocean plan.

4.1.1 Best Practices for Agency Coordination

4.1.2 Coastal Zone Management Act

4.1.3 Tribal Coordination

4.2 Responsibilities and Commitments

This section will describe RPB organization commitments to implementing the following additional responsibilities for ocean plan implementation.

4.2.1 Forum for Federal, Tribal, and State Coordination

4.2.2 Plan Updates

4.2.3 Public Engagement

4.2.4 Northeast Ocean Data Portal

4.2.5 Implementation of a Monitoring and Evaluation Plan and Science Priorities

4.3 Monitoring and Evaluation

4.3.1 Plan Performance

4.3.2 Ocean and Ecosystem Health

Chapter 5. Science and Research Priorities

This chapter will describe priority data, research, and science necessary to update and advance ocean plan information and analyses. *Note: The organization of this section is likely to change as priorities are refined and earlier plan sections are developed*.

5.1 Natural and Cultural Resources

5.2 Human Activities

5.3 Ecosystem Based Management

5.4 Changing Conditions

Appendices

This section will include information referenced throughout the document, including details about the planning process and final reports from ocean planning projects. This potentially includes:

- National Ocean Policy Documents
- National Ocean Council "Legal Authorities Relating to the Implementation of Coastal and Marine Spatial Planning"
- NE RPB Charter
- Framework for Ocean Planning in the Northeast
- RPB Meeting Summaries
- Other Public Meeting and Workshop Summaries
- EBM Work Group Meeting Summaries
- Final Reports from Industry Outreach
- Baseline Assessment

Document 3.3A
Ecosystem Based Management Work Group terms of reference

Northeast Regional Planning Body
Ecosystem Based Management Work Group
Terms of Reference

Purpose

The purpose of the Northeast Regional Planning Body's (RPB) Ecosystem Based Management (EBM) Work Group (WG) is to support and inform a range of activities designed to incorporate additional EBM considerations into the 2016 Northeast Ocean Plan, including the identification and scoping of activities that could be described in the first ocean plan and would be implemented over a longer timeframe. The EBM WG will have an important role informing the RPB during the development of the ocean plan. A summary of their recommendations will be produced after each meeting, shared directly with RPB members, and will be made available to the public. The RPB will make all decisions about the draft and final content of the Northeast Ocean Plan.

Responsibilities

The EBM WG will have the following responsibilities, with an initial focus on the first two tasks due to near term needs:

1. Inform and review the development of maps and other information characterizing and describing benthic and pelagic habitats and related ecosystem processes.
2. Support the research, identification, evaluation and application of approaches and methods to define and characterize important ecological areas.
3. Review analyses and mapping overlays of human use and ecological data, including compatibility considerations.
4. Inform options for monitoring ocean health and evaluating the effectiveness of the ocean plan, including periodically reviewing progress towards achieving ocean planning goals and implementing EBM.
5. Assist with the identification of science and research priorities.

Membership

EBM WG membership will be geographically diverse and include a range of scientific and traditional expertise necessary to accomplish the specific tasks and responsibilities under consideration at the time. At any one time, the EBM WG will have between 8-12 active members composed of science and/or technical staff from Northeast RPB organizations and research and science organizations. The EBM WG will be closely coordinated with similar efforts in the Mid-Atlantic region, potentially including joint meetings for specific tasks of interest to both regions. The EBM WG will also coordinate with Canadian efforts, if appropriate. EBM Work Group members will be selected by the RPB co-leads and recommended to the full RPB for approval. The EBM WG will include at least one RPB member who will help report progress and evolving needs directly to the RPB. EBM WG responsibilities

and membership will be periodically reviewed by staff and the RPB co-leads to ensure relevance to current ocean planning priorities.

Members will be asked to participate in 1-2 meetings or online webinars per quarter through June 2016. Members may also be asked to participate on an as-needed basis in other ocean planning events, such as workshops and RPB meetings. Meetings will be summarized and notes will be publicly distributed within three weeks of the meeting date.

WORK GROUP MEMBERS

RPB Organizations
Mike Fogarty (NOAA NMFS)
Mary Boatman (BOEM)
Margherita Pryor (EPA)
Bruce Carlisle (NE RPB Member – Massachusetts)
Kathryn Ford (NE RPB Alternate – Massachusetts)
Jeff Herter (New York)
Chuckie Green (NE RPB Member – Mashpee Wampanoag Tribal Council)

Research/Science Organizations
Bob Steneck (UMaine)
Kathy Mills (Gulf of Maine Research Institute)
Scott Kraus (New England Aquarium)
John King (URI)
Peter Auster (UCONN)

Document 3.3B
Ecosystem Based Management Work Group
Meeting 1 summary

Ecosystem Based Management Work Group Meeting #1 Summary

Portsmouth Public Library, Portsmouth NH
September 30, 2015; 1 - 4pm

Attendees

EBM Work Group: Mike Fogarty (NOAA NMFS), Mary Boatman (BOEM), Margherita Pryor (EPA), Bruce Carlisle (NE RPB Member – Massachusetts), Kathryn Ford (NE RPB Alternate – Massachusetts), Jeff Herter (New York); Bob Steneck (UMaine), Kathy Mills (Gulf of Maine Research Institute), John King (URI), Peter Auster (UConn)

Marine life Data and Analysis Team (MDAT): Pat Halpin, Jesse Cleary and Corrie Curtice (Duke University)

NROC: Nick Napoli and Emily Shumchenia

Northeast RPB: Betsy Nicholson (NOAA – RPB Federal Co-lead)

This meeting was open to the public, both in-person and via webinar/phone. Because time permitted, we were able to field questions and comments from the public to the Work Group.

Agenda overview

- Review EBM Work Group Terms of Reference
- Marine life data development (presentation slides 3-28 and discussion)
- Benthic and pelagic data development (slides 29-33 and discussion)
- Options for defining Ecologically Important Areas (slides 34-43 and discussion)

Outcomes

The EBM Work Group:

1. Will work with NROC staff to better understand and characterize MDAT model input variables (i.e., environmental covariates) that could help address important ecosystem processes in the region, and how these may play a role in mapping components of Important Ecological Areas (IEAs)
2. Defined a draft list of benthic, pelagic and living habitat variables that are important to ecosystem processes in the region
3. Recommends framing interactions between marine life/habitat and human uses by grouping species/habitats by sensitivity/vulnerability to specific impacts
4. Recommended the RPB develop a definition of IEAs in the Northeast region as a series of ecological components, using definitions from National Ocean Policy documents and similar efforts elsewhere, and that the RPB understand the potential to map these components in the short-term and long-term

(1) Better understanding and characterization of MDAT model input variables that could help address important ecosystem processes in the region and support the mapping of Important Ecological Areas

Pat Halpin described some of the environmental variables used in the MDAT marine mammals and birds modeling framework to predict marine life distribution and abundance including climatologies of sea surface temperature and salinity, distance to shelf and other topographical and oceanographic variables (see MDAT Work Plans for lists of these variables). The EBM Work Group discussed ways that subsets of

these variables are represented in the species model outputs, and how they may be considered in mapping Important Ecological Areas.

(2) Draft list of benthic, pelagic and living habitat variables that are important to ecosystem processes in the region

After hearing a brief overview of benthic, pelagic and living habitat variables that are available in the Northeast Ocean Data Portal or currently under development (Table 1), the EBM Work Group discussed several other variables that could support EBM and decision-making (Table 2). The EBM Work Group agreed with the grouping of variables by benthic, pelagic, and living categories at least until definitions of important ecological areas are further developed.

Table 1. Regional-scale habitat datasets and/or variables that are available in the Northeast Ocean Data Portal or are currently under development

Benthic	Pelagic	Living
• Substrate • Seabed forms • Slope • Rugosity • Canyons • Seamounts	• Surface, bottom temperature • Max, mean surface/bottom current velocity • Stratification	• Eelgrass • Corals • Shellfish habitat • Wetlands

Table 2. Suggested additions to the regional-scale habitat data and associated variables

Benthic	Pelagic	Living	Other
• Bathymetric position index • Slope of slope	• Oxygen • Mean sea floor tidal stress and benthic interaction • Frontal zone locations • pH • Salinity • Phytoplankton, Chlorophyll a, Primary Productivity*	• Kelp • Bivalve dominating communities and other structure forming fauna • Oyster reefs* • Harmful algal blooms • Invasive species	• Nutrients • Depth* • Distance from shore • Distance from shelf • Food web connections

**variables that were recommended and already exist in the Data Portal*

(3) Framing interactions between marine life/habitat and human uses by grouping species/habitats by sensitivity/vulnerability to specific impacts

The EBM Work Group acknowledged potential broad categories of sensitivity/vulnerability including sound, benthic disturbance and vertical infrastructure. These categories could be linked with existing and emerging offshore activities that are a current focus of ocean planning (e.g., energy, aquaculture, sand and gravel). EBM Work Group members are encouraged to contribute to the formation of sensitivity/vulnerability groupings by identifying relevant studies that quantify the effects of various activities on marine life and habitat.

(4) Recommendation to define Important Ecological Areas (IEAs) by a series of components and to develop an understanding of data available to address these in the short-term and long-term

The EBM Work Group recognized and discussed existing definitions of IEAs from groups such as Oceana, and in reports such as *A Biological Valuation of the Belgian Part of the North Sea* and the *Final Recommendations of the Interagency Ocean Policy Task Force*. These definitions have several components in common, including elements of ecosystem structure, function and processes such as

areas of high productivity, high biodiversity and spawning, breeding and feeding areas. The EBM Work Group discussed distilling the list of components from multiple definitions and making a recommendation to the RPB for the definition of IEAs in the Northeast region. Ecologically Rich Areas, a term and metric under consideration by the Mid-Atlantic RPB, could be included as one of these components. The EBM Work Group also discussed the benthic, pelagic and living habitat variables that could be used to map these types of components in the context of short-term (data are existing, in-hand) and long-term (data would need to be developed in the future). An example of a data product that could be developed in the short-term is a map of marine mammal, bird, and fish biodiversity hotspots using products currently under development by MDAT.

Next Steps

1. NROC staff will coordinate with agencies and EBM Work Group members to better define and gather information related to sensitivity/vulnerability species groupings and groupings by specific impact
2. NROC staff will work with EBM Work Group to develop a definition (i.e., list of components) for Important Ecological Areas to recommend to the Northeast RPB
3. NROC staff will work with EBM Work Group, MDAT and the Northeast Ocean Data Portal team to identify datasets available in the short-term to map proposed IEA components, including data used as environmental covariates in the MDAT models where appropriate. Longer-term data needs for IEA components will also be identified.

Document 4.1
Summary of
Stakeholder Forum

Northeast Regional Planning Body
Fall 2015 Stakeholder Forum

October 20, 2015
University of New Hampshire, Durham, New Hampshire

MEETING SUMMARY

Prepared by the:

TABLE OF CONTENTS

Executive Summary

The Northeast Regional Planning Body (RPB) hosted a one-day Stakeholder Forum on October 20, 2015. Approximately 61 participants from diverse stakeholder groups attended the Forum. The purpose of the workshop was to gather stakeholder feedback about the outline of the draft Ocean Plan and plan implementation and science research priorities prior to discussion of these topics at the November 16-17, 2015 RPB meeting.

Ocean planning staff summarized the timeline for completion of the Ocean Plan, which must be submitted to the National Ocean Council in June 2016. There will be a 45-day public comment period on a draft plan before that deadline. Participants gave feedback on the overall draft Ocean Plan outline and timeline, seeking to understand what content will be included where and identifying the three ocean plan goals (healthy ocean and coastal ecosystems, effective decision-making, and compatibility among uses) and ecosystem based management (EBM) as particular topics that should be threaded through the entire Ocean Plan.

Ocean planning staff then presented an update on the data products being developed for the Ocean Plan. Participants commented on the data (including gaps such as lobstering activity and other topics' data limitations) and said that information about data limitations must be clearly communicated to users of the data portal. Staff then gave an update on the recently formed EBM workgroup and their priorities for the coming couple of months. Deerin Babb-Brott (SeaPlan and ocean planning contractor) presented an overview of the work about best practices for agency coordination in the areas of: participation in early coordination of development review, use of Ocean Plan data and information, coordination with stakeholders, coordination with states, and coordination with tribes. Participants urged those developing the draft Ocean Plan to think carefully about how to ensure that best practices described in the draft Ocean Plan would be sufficient (in terms of substance and the level of agency commitment) to achieve desired results.

Ocean planning staff presented a potential framework for monitoring and evaluating plan performance and ecosystem health. The presentation underscored the challenge of identifying indicators that show cause and effect relationships and of identifying quantifiable metrics that can be measured, noting that qualitative and quantitative are both likely to be useful. Participants worked in small groups to develop ideas for how to measure progress toward each of the Ocean Plan's three goals once the Ocean Plan is finalized. Although indicators varied for each of the three main goals, some common themes included the importance of data use and maintenance. Common themes between the goals of effective decision making and compatibility among uses included surveying stakeholders and agencies about their experience to gauge the efficacy of enhanced coordination efforts once implemented; monitoring the time it takes a project to move from pre-proposal to project implementation; and monitoring trends in positive or negative comments received or made through media outlets.

Participants then brainstormed individually to identify science and research priorities for the region to undertake once the Ocean Plan is in place. Ideas were grouped into four categories: natural and cultural

resources, human activities, EBM, and changing conditions. Small groups then grouped and reflected on the various suggestions, identifying general themes and adding missing ideas. These ideas will feed into RPB deliberations about what to include in Chapter 5 (Science and Research Priorities) of the Ocean Plan.

Finally, the group discussed future responsibilities and commitments for implementing the Ocean Plan. Participants highlighted the importance of implementation beginning immediately through efforts to maintain open lines of communication between stakeholders, agencies, and tribes; continue forums where people could discuss ocean-planning issues and resolve conflicts between ocean uses (by focusing on specific topics such as offshore aquaculture or sand and gravel extraction, for example). The participants highlighted the need for stakeholders and agencies alike to continue supporting the Ocean Plan, to advocate its use to elected officials, and to ensure agency staff are dedicated to its implementation.

1. Welcome, Agenda Review & Objectives

On October 20, 2015, the Northeast Regional Planning Body (RPB) hosted a one-day Stakeholder Forum on ocean planning in the northeast United States. Approximately 61 participants from federal and state agencies, industry groups, fisheries, academic institutions, nonprofit organizations, and elsewhere attended the workshop.[1] The goal of the forum was to engage stakeholders in dialogue and collect feedback about key discussion topics in advance of the November 16-17 RPB meeting. More specifically, there were two meeting objectives: first, to provide updates and discuss progress on the draft Ocean Plan outline, focused on Chapter 3 (Regulatory Environment and Management Actions), and recent updates (such as the work of the Ecosystem Based Management Work Group); second, to obtain input on potential approaches and substance for Chapter 4 (Plan Implementation) and Chapter 5 (Science and Research Priorities) of the draft Ocean Plan.

Staff from the Consensus Building Institute (CBI) facilitated the workshop and drafted this workshop summary.[2] Presentation slides and other materials from the workshop are available at the following URL: http://neoceanplanning.org/events/fall-2015-stakeholder-forum/

Betsy Nicholson, the RPB federal co-lead, welcomed participants and set the context for the Forum. This is the final year of developing the Ocean Plan to guide ocean planning through existing authorities. Several years ago, the process started by setting goals for ocean planning that reflect shared values of ocean users across New England. This was followed by stakeholder and scientist collaboration to collect data to characterize ocean resources and provide information for transparent decision-making. Now, the process is turning to the discussion of how to implement the plan in the short and long-term. Ms. Nicholson emphasized the importance of including the best and most realistic ideas in the Ocean Plan both for short-term action and long-term implementation.

Ocean planning staff then presented the outline of and timeline for the development of the draft Ocean Plan, focusing on data and agency guidance in Chapter 3, the progress of the Ecosystem Based Management Work Group (EBM Work Group), and best practices for agency coordination.

2. Draft Ocean Plan Timeline and Outline

Nick Napoli, ocean planning staff, summarized the timeline for completion and the draft Ocean Plan outline. See Appendix B for the slide presentation accompanying his remarks.

The draft Ocean Plan must be submitted to the National Ocean Council (NOC) at the end of June 2016. Prior to submitting the Ocean Plan in June 2016, a draft of the Ocean Plan will be issued at an RPB meeting in March followed by a 45-day public review period. The RPB will revise the draft Ocean Plan

[1] See Appendix A for a full list of participants.
[2] Consensus Building Institute staff: Dory Dinoto, Ona Ferguson, Patrick Field, and Eric J. Roberts.

following feedback gathered during the public review period and will then submit the Ocean Plan to the NOC, which will have approximately three months to review it. October 2016 is the anticipated publication date for the final Ocean Plan.

Mr. Napoli described the five major chapters of the draft Ocean Plan outline, which could evolve as the plan is drafted. The five chapters of the draft outline include:

1. New England Offshore Environment and the Need for Ocean Planning: Chapter 1 is a way to broadly identify the need for this work in New England, drawing upon the baseline assessment information (the baseline information will be included in the appendix) and generally discussing the importance of the three goals.
2. Ocean Planning in New England: Chapter 2 will present the major milestones of the planning process, beginning with initial steps leading to the establishment of planning goals, and describe its evolution.
3. The Regulatory Environment and Management Actions: Chapter 3 will present the regulatory context and primary legal authorities that are involved in management of ocean uses and resources, with an overview in Section 3.1and specific details as follows: natural and cultural resources (Section 3.2); human activities (Section 3.3); and EBM (Section 3.4). Sections 3.1 and 3.2 will include topically-specific sub-sections with an overview, maps and data, a description of how the relevant agencies intend to use the data in existing regulatory and management programs, additional information sources, information about the long-term maintenance of ocean plan maps and data including a brief mention of science priorities, and other related RPB agency initiatives and coordination activities. Ecosystem Based Management (Section 3.4) was added to describe how EBM principles are incorporated in the plan and, consequently, how agencies plan to incorporate EBM during plan implementation. The EBM topic could fit in many parts of the Ocean Plan.
4. Ocean Plan Implementation: Chapter 4 will describe best practices for intergovernmental coordination, the responsibilities and commitments of RPB members for Ocean Plan implementation, and monitoring and evaluation of plan performance and ocean and ecosystem health.
5. Science and Research Priorities: Chapter 5 will expand upon the science and research priorities mentioned in Chapter 3, Sections 3.2 and 3.3, and describe the short- and long-term needs to update ocean plan information and analysis by filling data gaps and highlight long-term planning considerations, including changing conditions.

Discussion

Participants made the following comments and asked the following questions. Responses from ocean planning staff are italicized:

- The Antiquities Act should be included in Section 3.1 since certain organizations in New England and at a national level are advocating for the President to use his power under the act to designate a national marine monument in this region of the Atlantic Ocean.

- Consider providing a public comment period that is longer than 45 days since the public has not had a chance to review the draft baseline or summary products, or the agency guidance.
- Consider whether to include emerging uses in the plan or how to differentiate between established and nascent ocean uses, and whether or not including nascent ocean uses increases their potential to become established. Section 3.3 includes a list of human activities, but some activities such as energy, aquaculture, and some aspects of sand and gravel mining are just starting and not established yet as a major part of the offshore environment—why should these emerging uses be given the same credibility by including them with well established ocean uses?
- The Historical and Cultural Resources section should include information about tribal groups and other communities that have historically relied on ocean resources.
- Where will compatibility issues between uses be outlined? *We anticipate this information will be included in Chapter 3 in the sections drafted by agencies that describe how they will use the data under existing authorities.*
- Where will issues such as coastal development, hardening of shorelines, coastal runoff, etc. that relate to the ocean/coast interface be included? *Some of that is found in the baseline assessment and could be included in the introduction.*
- Are you using the national database for stranding responders when you talk about marine mammal and sea turtle data? *The stranding data is not incorporated due to how it is collected, but it is used to validate the models that are used for these species*.
- How will the plan address the three goals of ocean planning? Will they be addressed in each chapter? How will agency guidance lead back to those goals? *We hope Chapter 2 will describe how the plan addresses the goals. Additionally, the goals will be embedded in each topic, so we anticipate discussion of the three goals in each section.*
- Participants made several comments about including EBM in the plan:
    - The opening description and vision for the plan should incorporate EBM, since it is an aspiration the agencies hope to achieve.
    - The EBM section should describe a management philosophy and specifically describe how that philosophy translates into management decisions.
    - Include a clear definition of EBM: "The RPB believes EBM is…"
    - Will adaptive management be discussed in the implementation section? *A lot of EBM is adaptive management and EBM will be threaded throughout the plan, but for now we have this section as a placeholder for EBM.*

3. Data and Agency Guidance in Chapter 3 of the Ocean Plan Draft Outline

Mr. Napoli provided participants with an update on product development related to Natural and Cultural Resources (Section 3.2) and Human Activities (Section 3.3). The group also discussed related agency guidance for these sections.

The MDAT team is wrapping up more than 3,000 data products for individual marine mammal, fish, and bird species. Ocean planning staff are working with the MDAT team to create other individual species-

derived groupings based on regulatory status (e.g., listed under the Endangered Species Act) or ecological function. The team is also considering vulnerability- or sensitivity- based species groupings, examining scientific literature to compile conclusions about species interactions or impacts (for example, grouping whales by sensitivity to low-, mid-, or high-frequency sound. Mr. Napoli requested participants to forward literature they know of that could help develop sensitivity or vulnerability-based groupings. Collaboration is ongoing with the tribes to develop plan content related to historic and cultural resources. Human use data (e.g., shipping, fishing, and recreation) is mostly complete with three updates in preparation:

- AIS data from 2013 for the marine transportation theme
- 19 Vessel Monitoring System (VMS) maps for the commercial fishing theme
- characterization of coastal and marine recreation activities.

Mr. Napoli described species groupings products to be completed using the marine life data. The base of these groupings are the more than 3,000 species specific layers. In Chapter 3, agencies will describe how they intend to use these data in their decision making. Agencies will also describe their use of products that group individual species.

Discussion

Participants made the following comments and asked the following questions. Responses from ocean planning staff are italicized.

- A presentation at the recent RARGOM (Regional Association for Research on the Gulf of Maine) conference highlighted the disappearance of right whales this summer and how little we know about their behavior. It illustrates how quickly information can change and illuminates the need for the plan to guidance for updating and maintaining data to ensure it is reliable and useful.
- Do analyses stop at the shelf break because we lack data or because we cannot go beyond the shelf? *A lot of the fish data is based on trawl data, which does not go beyond the shelf. Some bird and mammal data goes beyond the shelf. Chapter 5 could include reference to data gaps in deep locations/off-shelf areas.*
- What is at the top of the pyramid and is the intent of creating multi-taxa hot spots to justify nationally protected areas or areas to be exploited under a particular act? The plan should clearly explain that creating justifications for nationally protected areas or areas to be exploited is beyond the scope of what the agencies are supposed to do and that there are no endorsements by agencies for creating multi-taxa hotspots.
- It is important to alert the public when data is available for public review.
- Can people use the viewers to create their own groupings? *Users could stack individual species layers, but the groupings the MDAT team is completing require additional analysis that users could not conduct just by combining multiple layers.*
- Some areas are particularly important for different life stages of species, and this may be an issue to examine in the future. Considering the fish grouping, is Essential Fish Habitat (EFH) an

attempt focus on life history by, for example, identifying spawning or juvenile refuge locations across species? *We are actively thinking about how to map life history, and the portal already contains EFH data.*

- Many fish species in the juvenile stage could be considered forage fish. Some important life stages are not linked to management but should be. There are several highly commercially valuable invertebrates in the region, how will these be grouped? *Groupings will be submitted to the work group for comment soon. Available data sources will limit what is possible given inherent limitations in data sets.*
- The portal should show avian species by breeding colonies and foraging concentrations, which is a common way to view this data.
- It could be useful to depict stock status so maps could show hotspots for species that are overfished or depleted. *We have not done this yet, but some recommended that we group species by management plan.*
- We need to ensure that lobstering efforts are included, especially since there are slivers of federal waters that are open to state lobstermen. Will any data be included in the portal to identify lobstering efforts? *We know that lobster fishing location is a data gap to fill and expect this will be included in the Chapter 5 (science and research priorities). The Ocean Plan will also reference other sources of information that may be available for portions of New England (e.g., state-specific information).*
- A broad, basic level of information should be included in the plan rather than making references to many other data sources. Please comment on the lobster data that is referenced in the plan but not included and describe the decision making process to determine what data to include or not include in the plan. *Data that is not in the portal, but that is referenced in the plan, can still be used by agencies and project proponents. When agencies draft their sections of the plan, they will identify the data they will reference and how they plan to use it. Additionally, the plan will reference the lobster data that is in the Massachusetts Ocean Plan, but also recognize that we do not have that type of lobster data region-wide. In general, as part of the data portal effort, decisions are made about inclusion of that data is based on whether it is the best available data and whether it is regionally available. It will be up to the agencies to reference additional data sets they anticipate using. The plan will also describe the criteria the MDAT team used to determine which data they used in the models.*

4. Ecosystem Based Management Work Group Update

Dr. Emily Shumchenia, ocean planning staff, presented a brief update on the Ecosystem Based Management Work Group. During the first work group meeting held at the end of September, its members provided input how to merge habitat and marine life data sets into useful products.[3] They also identified the need to define important ecological areas (IEAs) based on components such as rarity,

[3] A meeting summary of the inaugural EBM Work Group meeting is available here: http://neoceanplanning.org/events/inaugural-ebm-working-group-meeting/

diversity, vulnerability, spawning and breeding, migration, etc. The Mid-Atlantic RPB is considering ecological richness as one way to define an IEA; if the NE RPB used this approach it would lend consistency across both regions. Upcoming work group meetings will continue these discussions and possibly focus on interactions between ecological variables and human uses, monitoring and evaluation, and future science and research priorities.

Discussion

Participants made the following comments and asked the following questions. Responses from ocean planning staff are italicized.

- Will the working group define EBM? *During the EBM workshop, we talked about the various definitions of EBM and the principles of EBM included in the National Ocean Policy. We will apply already-developed definitions and principles in the literature. The EBM work group Terms of Reference describes the work the group will undertake.*[4]
- Ecosystem based management is a long, slow, evolutionary process specific to the ecosystem at hand. You will know you are making progress when outcomes are framed as societal or economic outputs as well as broad sustainability outputs.
- An outcome of the EBM workshop was that people said that ecologically rich areas are only one component of EBM. Adaptive change, migratory corridors, and habitat continuity are examples of others, and these should be the focus of the EBM work group and the Ocean Plan. Only identifying ecologically rich areas is dangerous because it can lead to ocean zoning which justifies whether a particular act or regulation will focus development in a particular area. The intent of ocean planning is not ocean zoning. *The function of the EBM Work Group is defined in the group's Terms of Reference and is much larger than establishing hotspots.*
- The work group could consider reviewing ecological marine units similar to those being considered by the Mid-Atlantic RPB. Right now we make decisions without data, and efforts made to date will be very valuable to help us know where not to permit specific activities.

5. Best Practices for Agency Coordination

Mr. Deerin Babb-Brott, SeaPlan, presented an overview of his research on best practices for agency coordination. He is currently seeking RPB feedback on a draft best practices document and expects to present a revised version in November. Highlights from his overview included the following.

In 2014, the RBP identified options for moving forward with the Effective Decision-Making goal. A key outcome of this discussion was that best practices could be developed to enhance coordination and decision making, particularly for NEPA review and US Army Corps of Engineers permitting. Initially, the best practices were narrowly focused on pre-application ocean development review; however the focus

[4] The EBM Work Group Terms of Reference are located here: http://neoceanplanning.org/events/inaugural-EBM-working-group-meeting/

has since been broadened to best practices for agency coordination to capture a wider range of applicability.

The best practices for agency coordination will support or provide the structure for improved coordination between agencies, project proponents, and other interested stakeholders. The best practices are intended to improve decision-making processes between agencies by connecting ocean plan information with agency implementation of existing authorities. The data portal will provide key information to agencies early in their decision making processes to establish a baseline understanding of the context for proposed ocean development. These best practices will also enhance the clarity and efficiency of the process for the applicant, and enhance stakeholder engagement in the planning, review, and or/regulatory processes associated with decision-making.

Mr. Babb-Brott described best practices in five main categories:

- *Participation in early coordination* – best practices suggested in this category would aid the initiation of early coordination prior to the beginning of official review processes. Suggested best practices for early coordination would help project proponents understand all the applicable information they should submit in a formal development proposal. They would also suggest that lead agencies provide interested parties with opportunities to learn about and provide early input on projects.
- *Use of data and information* – best practices in this category would highlight the need to use ocean plan data to frame project proposals and acknowledge that site-specific data will likely be needed for each proposed project. Best practices in this category may also serve to remind parties to explicitly discuss data limitations or missing data (e.g., lobstering data) necessary for agencies to make an informed decision on a specific project.
- *Coordination with stakeholders* – these best practices would aid in stakeholder identification potentially affected by a project and assessment of their interests and concerns. The suggested best practices will work within existing management provisions that require characterization of stakeholder interests and identify approaches that agencies could use to engage stakeholders to clarify stakeholders' interests and concerns, identify where interests and concerns converge or diverge, and determine potential options to address those interests and concerns.
- *Coordination with states* – suggested best practices in this category would highlight and encourage the use of existing processes to coordinate project review with the state(s) with jurisdiction over a proposed project. These processes are often determined by existing statutory, regulatory, administrative, and/or practical measures.
- *Coordination with tribes* – Tribal representatives and ocean planning staff are currently developing suggested best practices for agency coordination with tribes.

Discussion

Participants made the following comments and asked the following questions. Responses from ocean planning staff are italicized.

- Harbor Masters are often engaged and speak about lobstermen interests, but lobstermen should represent their own interests. How will you determine which industry stakeholders are engaged? *One recommendation is to create a centralized information hub that would make it easy for interested parties to learn about proposed projects themselves, but parties may not have time to consistently check another web page. The best practices may suggest creation of a list of core stakeholders to remind project managers of who should be engaged.*
- If project proponents are required to engage stakeholders, are they obligated to use the information they collect from stakeholders? *The best practices cannot legislate behavior but instead provide a soft authority. For example, if the best practices are reflected in the ocean plan and the plan is the guidebook for how to do business, then stakeholders can use public comment periods to remind agencies of the commitments they agreed to in the ocean plan.*
- The NEPA process could be improved by incorporating a systems perspective to link to EBM and the ocean plan. The EPA Green Book on Sustainability Management is an example of incorporation of a systems thinking approach.
- The ocean planning process will improve processes like NEPA, but how will the plan enable collaborative problem solving between stakeholders without government intervention, and how will it resolve conflicts between specific stakeholders? *The agencies could orchestrate conversations to facilitate collaborative problem solving and address specific conflicts. A large, roundtable discussion may not always be feasible, but there are several different ways to provide decision makers with the outcomes of such conversations. Some of this will be outlined in Section 4.2.*
- What happens if best practices are not followed? Since best practices cannot be required, is there a way to make it difficult for agencies not to follow best practices? *Agencies could choose to ignore the best practices, but it would look bad since there is an Executive Order (and in the Northeast, a signed charter) saying they would participate in ocean planning; they can be held accountable for having signed that agreement. If a stakeholder feels an agency is not living up to what they agreed to do, the stakeholder can use the required public comment processes to highlight what the agency agreed to do and where the agency has not followed through. It may also be useful to engage local and regional elected officials.*
- An ocean plan user guide would provide a clear path for plan users with specific interest to identify where in the plan to find the information they need.
- Where will the Coastal Zone Management Act fit into the Ocean Plan? *Ideas related to interactions between states and federal agencies, pursuant to the authorities included in the CZMA, are currently being discussed, and there is a placeholder for now in Chapter 4, Section 4.1.2, pending further discussion among the states. The section could describe how CZMA might be used to provide notice of activities, how the data portal could be used in coastal effects analysis, and suggest options to streamline CZMA reviews for certain federal actions.*
- To seriously employ ocean planning, we must use the best science and seek public input and deliberation prior to decision-making.

6. Monitoring and Evaluation: Plan Performance and Ecosystem Health

Ocean planning staff presented potential options for monitoring and evaluating plan performance and ecosystem health. They underscored the challenge of identifying indicators that show cause and effect relationships and of identifying quantifiable metrics that can be measured.

Monitoring Ocean and Ecosystem Health

Mr. Napoli provided background on two options for monitoring ecosystem health: the Integrated Sentinel Monitoring Network (ISMN) and the Ocean Health Index (OHI). He said the initial suggestion is that the two could be used in tandem to monitor ecosystem health during plan implementation, since they are complementary in approach and intended outcomes. The ISMN matches well with some of the ecosystem components (species and habitats) outlined in Chapter 3 of the plan, but it does not include human uses or socioeconomic considerations. The OHI is a broader assessment that combines socioeconomic, environmental, and cultural considerations to establish a baseline for measuring changes over time. Using both the ISMN and OHI together could help people monitor and evaluate marine ecosystem health.

Discussion

Participants made the following comments and asked the following questions. Responses from ocean planning staff or others are italicized.

- Is the ISMN limited to measuring the impacts of climate change? *A representative on the ISMN steering committee said it started with a focus on climate change but has since become broader.*
- The ISMN would track certain variables, but it would not evaluate what to do to achieve a healthier environment. To achieve the goal of improving ecosystem health, do we want to have something that will create recommendations about the actions needed to attain the goal? *The OHI establishes goals to attain, but the ISMN may not have a goal-setting component. Results of OHI and ISMN would inform needed management actions.*
- The marine disentanglement efforts of the Marine Mammal Stranding Network could be a good source of data for quantifiable human impacts. We may also want to monitor marine debris.
- It is important to monitor for economic considerations such as jobs created or eliminated.
- The monitoring and evaluation program should be closely linked to adaptive management; it should help to increase certainty about what is or is not working by trying activities, learning from them, and making decisions about what will or won't work.

Monitoring Plan Performance

John Weber, ocean planning staff, presented several ways to monitor and evaluate plan performance (see the examples in the presentation slides). He noted that qualitative data might be as valuable as quantitative data for monitoring the performance of the plan. For example, qualitative data may be appropriate to monitor and evaluate progress on the effective decision-making goal.

Small Table Discussions

Participants broke into small table groups to brainstorm indicators that could be used to monitor and evaluate plan performance as they pertain to the three goals of ocean planning. Below are participants' comments and questions, compiled, summarized and organized by theme.

Goal: Healthy Ocean and Coastal Ecosystems

Indicators

- Overall ocean ecosystem status
    - Is the plan helping to maintain, improve, or restore ocean health?
    - Is the plan meaningfully helping to identify trends or changes that are increasing or decreasing ocean health?
        - Are we collecting, tracking, and identifying trends across a range of parameters for a range of species, groups, and broader ecosystem measures?
        - Has the plan identified and is it using an index or tool such as the Oceans Health Index?
        - Can we identify and track changes over time to show improvements in ocean health?
    - Is there a feedback loop to identify what worked and what did not, and to then adapt management accordingly?
- Data improvement and maintenance
    - Are we ensuring that the quality, timeliness, and reliability of the data are sufficient to be used in agency decision-making?
    - Is a plan in place to ensure plan data is updated? Are we updating important data sets on a regular basis to ensure that they are up-to-date? How often is the data updated?
    - What were the information gaps when ocean planning commenced? What data gaps will still be present (beyond project-specific data) when monitoring and evaluation commences? Over time are we filling the data gaps that have been identified?
    - What and how much new data was entered into the portal? What agencies provided data?
    - Are we improving data quality to improve its reliability, accuracy, and comprehensiveness over time?
- Data use
    - Is the use of data clearly identified in agency review and decision making processes?
    - When agencies present progress on project review to the National Ocean Council, the public, or the RPB, do they use data and information to inform impact avoidance or mitigation development?
    - Can the use of data be clearly identified in project proposals? Did project proponents use the data portal meaningfully to develop, refine, and hone their applications?

- Contribution or collaboration with the Science & Research Needs in the Ocean Plan
    - Is the Science Plan triggering proactive scientific that helps to develop a rational basis for EBM that ultimately supports the Healthy Ecosystems Goal?
    - Are many research intuitions working on research priorities listed in the science plan?
    - Is the Science Plan referenced often in other work and widely embraced by social and natural scientists?
- Conservation and/or restoration actions
    - How many acres or projects have been conserved or restored (though data will be most available for restoration)? This will help us track preservation or restoration of ecological systems that need to remain functional.
    - How much land has been acquired by New England's coastal states?
- Public understanding and awareness
    - Has the plan increased the public's understanding and awareness of ocean ecosystem health?

Questions and Comments

- Can specific ecosystem goals be identified (i.e., eel grass restoration) and tracked over time to show how the plan helped to meet that goal or objective?
- Should Objective 1 under this goal be to '"characterize [these things] *well*" as opposed to just characterizing them?
- Drivers of interest to track for this goal include resource extraction, development of projects on land, aquaculture projects and climate change.
- A long-term commitment to tracking the work that is completed and any changes made along the way will be required.
- Could the RPB prioritize projects meeting certain criteria (including wide-spread support)? While agencies won't be able to endorse conservation and restoration projects throughout the region, perhaps they could do something like this, then we could monitor completion of those projects.

<u>Goal: Effective Decision-Making</u>

Indicators

- Process, timing, and/or frequency of coordination
    - Did agencies make lists of relevant stakeholder groups for various aspects of their regulations? Are they using the lists to remember to engage those stakeholders?
    - Were stakeholders who requested early notification of proposed projects engaged early in the process? How frequently were they engaged early?
    - How frequently are agencies informed of a project prior to official agency-to-agency communication requirements (i.e., conversation occurs between BOEM and NOAA prior

to when BOEM officially submits a project to NMFS, which then must review and present the potential impacts of the project to BOEM within three days.)
    - Is there an increase or decrease in agency-to-agency collaboration or in agency/stakeholder collaboration?
    - Is there an increase in public participation from a wider group of stakeholders?
    - Can agencies and stakeholders identify occasions when agencies implemented the best practices for agency coordination that are suggested within the plan?
    - How well do stakeholders feel the process is working for them?
- Timeframe from project submittal to implementation
    - Does the timeframe for decision-making and project implementation increase or decrease?
    - Does using the plan decrease the steps of the permitting process (e.g., CZMA review or 401 certification)? Are duplicitous points reduced?
- Memorandums of Understanding (MOUs) – several participants suggested the following indicators associated with MOUs:
    - How many MOUs are created between federal agencies or between state and federal agencies?
    - What is the quality of the MOU?
    - Are the MOUs followed?
- Data use
    - Is there a change in the quantity or quality of proposed projects due to use of data? Is there a reduction in the number of rejected projects due to the use of the data?
    - How many people are visiting and/or using the data on the data portal?
    - Is there an increase in the quantity and quality of standardized data for states that don't already have data in the portal? Are all states meeting the same data standards?
    - How frequently are DOI digital data references identified in project proposals or agency decisions?
- Litigation
    - Is there an increase or decrease in litigation?
    - Is there a percentage increase or decrease in an agency's total budget for legal fees?
- Other
    - Does a linguistics analysis identify positive or negative trends in perceptions based on comments in news reports, radio, television, social media outlets, etc.?

Questions and comments

- The National Research Council report *Sustainability for the Nation: Resource Connections and Governance Links* could provide useful examples to include in the plan of how agencies could enhance collaboration to achieve long-term sustainability goals.[5]

[5] The NRC report is located here: http://www.nap.edu/read/13471/chapter/1

- The New Hampshire Site Evaluation Committee (SEC) works well because all agencies are on one board and get involved at the same time; agency support and commitment to convening and collaboratively assessing and deciding on project proposals will be required to make substantial change through the ocean planning process.
- Could several agencies be selected to assess how well the agency's constituents feel the process is working for them?
- Can a human relations/quality of service type of survey be developed and completed by project applicants or other stakeholders?

Goal: Compatibility Among Past, Current, and Future Ocean Uses

Indicators

- Process, timing, and/or frequency of coordination with stakeholders
    - How many and what kind of opportunities have the Ocean Plan's signatories provided for ocean users to engage across sectors around particular uses and activities?
    - At what point in the process are affected stakeholders being engaged in the conversation? How much earlier are people being engaged than previously? How many agency pre-coordination meetings occur?
    - What are the perceptions of stakeholders when asked qualitative questions about engagement between stakeholders?
    - How much project proponent outreach is completed?
    - How frequently are agencies involved in the projects represented at public hearings?
    - Measure government coordination by quantity of internal agency correspondence.
- Conflict prevention and resolution, and stakeholder satisfaction
    - For each activity or kind of use, has the plan identified the key potential impacts related to other uses, species, or habitats?
    - If a grid of uses and resources were created to identify the issues of greatest concern between each potential interaction, how would ocean users respond to survey questions about whether or not and how the grid was used?
    - Has the plan helped to reduce, minimize, or prevent user conflicts?
    - How many legal or formal challenges were made to an agency decision prior to the plan and after plan implementation?
    - How many challenges are associated with offshore projects now and over time as the plan is implemented?
    - How many comment letters are received and what is the proportion of negative to positive comment letters?
- Quality of project proposals, quantity or extent of required revisions, and applications approved or denied
    - How many changes must be made to address concerns about draft proposals before a final proposal is accepted and approved?

    - What is the level of quality of the environmental document submitted with project proposals? What is the frequency of positive to negative public comments received about the quality of environmental documents (EA, EIS, etc.) submitted by project proponents?
    - How many applications are approved or denied prior to and after plan implementation?
- Data use
    - Are agencies referring to data in the portal? How often do agencies visit the data portal?
    - Are agencies incorporating data into official decision making documents? How many references to data in the portal are in NEPA documents?
    - Was ocean plan data used or helpful in a decision or permit application?
    - Are project proponents using the information in the Ocean Plan/data portal?
- Timeline from project submittal to implementation
    - What is the average permit processing time prior to and after plan implementation?
- Other
    - When and where did operational practices change (e.g. deepwater wind development could be delayed because of right whale migration)?
    - What economic impacts occurred due to a project?

Questions and comments

- The RPB could request the NEFMC to describe potential fishing impacts of different activities.
- Email surveys could be distributed to anyone who participated in a particular process.
- Can a compatibility matrix be created to clearly indicate conflicts and compatibility among different uses and species and habitats?
- How might the concept of “no net loss” be used as a tool for measuring plan performance across and beyond individual permits and projects?
- Measuring the resolution of conflict immediately after a project is decided upon or implemented may not yield useful results; it may be more useful to assess the process several years after conclusion of the decision making process or implementation of the proposed project so stakeholders can reflect on the process, the agreement that was reached, and what occurred after the conclusion of the decision making process.

7. Science and Research Priorities

Mr. Napoli introduced Chapter 5, science and research priorities, of the draft Ocean Plan outline. This chapter of the plan will focus on natural and cultural resources, human activities, EBM, and changing conditions, building upon previous chapters of the plan particularly Chapter 3. Short to medium-term priorities will focus on updates to ocean plan products that can be achieved within the first six months to a year of plan implementation (e.g., following its finalization). Long-term priorities would focus on additional research over a longer timeframe. For both the short-term and long-term priorities, the plan will identify potential programs and partner efforts that could be leveraged to complete the priorities.

Independent and Small Group Brainstorms

Participants wrote ideas for research priorities on post-it notes and then grouped them by category (natural and cultural resources, human activities, EBM, or changing conditions). Small groups of participants reviewed each category and identified and added additional science and research priorities.

Participants suggested the following science and research priorities, which have been compiled, summarized and loosely organized by theme. Participants were not asked to reach agreement, so some suggestions may contradict others.

Natural and Cultural Resources

- Holistic and Systemic
    - Map locations of important ecological areas/habitat
    - Manage fisheries holistically, not individual species (this should be long term goal)
    - Focus on cumulative impacts on species and uses
    - Develop operational/consensus definition of ocean ecosystem health considering both structural and functional attributes
    - Conduct comprehensive research to identify how New England's natural marine resources contribute to meeting the jobs, economic, and societal needs of the region and nation
- Cultural
    - Identify island and coastal cultures within the region
    - Conduct economic and social impact studies of small island communities
    - Work with tribes to identify important natural resources areas (aquaculture, fishing, etc.) in addition to paleo-cultural sites
    - Expand work to characterize paleo-landscapes
    - Measure or partially correlate the strength of "cultural/historical value" by looking to local tourism activities
    - Collect cultural-fishing or port data, not just tribal data
    - Study the general public values of local seafood and preservation of local fishing ports and traditions
- Impacts
    - Forecast the impact of sea level rise and storm surge on historic places
    - Evaluate the effect of fisheries closures on species and habitat improvements
    - Study all impacts of aquaculture and sand and gravel mining. Monitor pilot projects.
    - Investigate noise-related impacts from wind energy and other impacts on marine mammals and sea turtles from developed projects
- Improve data
    - Develop a better understanding of year-round marine mammal abundance and habitat use
    - For marine mammals, extend aerial surveys to encompass all of the northeast

    - Conduct ongoing surveys for marine life including mammals, turtles, birds, and fish to fill gaps.
    - Compile historical abundance and utilization data
    - Identify biodiversity hotspots
    - Compile and create a regional lobster data set
- Near shore
    - Improve near shore marine mammal and sea turtle density information (accuracy and scale)
    - Incorporate state near shore trawl and other species abundance surveys into models
    - Connect stressors on natural resources in bays or estuaries to open ocean
    - Restoration: identify or update restoration efforts that tie estuaries/bays to ocean planning goals
    - Identify near shore seagrass distribution and trends
- Seafloor
    - Seafloor mapping/sediment characterization
    - Benthic habitat characterization
    - Improve characterization of seafloor habitats and biotic relations

<u>Human Activities</u>

- General
    - Identify and characterize historic tribal sustenance areas and behaviors
    - Emerging uses: offshore energy and offshore aquaculture
    - Trends in marine mammal and turtle entanglement
    - Quantify the amount of marine debris, both floating and submerged
    - Complete white papers similar to the shipping/maritime paper for a broader set of issues (e.g. small communicates, recreational fishing, etc.)
    - Include all Federal Permit (lobster) efforts by allowing a 5-10 mile radius per permit
- Links between near shore and offshore environments
    - Land use impacts on water quality and how this is exacerbated with temperature and acidification
    - Quantify runoff/pollutants from shore that impact water quality and habitats. Identify sources and changes overtime
- Impacts of human uses on other uses
    - Assess interactions between offshore and near shore activities (non-consumptive ocean recreation and offshore developments)
    - Cultural effects of interruption the change of multi-generational reliance on the ocean for livelihoods
    - Study how recreational use increases or decreases over time
- Environmental and ecological impacts

  - Identify expected, real, and perceived impacts from increased ocean development
  - Compile real-time observations of impacts during construction and operation of wind energy projects
  - Conduct environmental/ecological impacts of offshore energy infrastructure and aquaculture projects
  - Compile existing literature on environmental impacts of existing and emerging ocean industries in a central location
  - Conduct a cumulative analysis of the impacts of sand mining at the regional scale
  - Provide updates on the sand and gravel research being conducted by BOEM with states
  - Study all impacts and seek public input on new activities such as aquaculture, sand and gravel, and mining
- Public Values and Perceptions
  - Track changes in public perception/awareness of ocean health metrics
  - Host ongoing stakeholder engagement opportunities
  - Study public values related to ocean activities and ocean health. Do not just use monetary values of economic uses
- Economic
  - Identify human activities and their economic impact in each one degree by one degree area (or other area) to provide starting point for transparent discussion
  - Conduct a gaps analysis of human activities not addressed in the marine plan and an analysis of the existing or potential future economic contribution
  - Complete a comprehensive data/study of economic impacts (human uses; resources)
  - Study how local seafood processing, etc. can build local economies and communities
  - Compete community economic conditions analysis
- Fisheries
  - Map communication and the political/economic networks in the fishing industry for agency coordination
  - Create a spatial characterization for recreational fishing, parse by different categories
  - Commercial fishing: conduct industry surveys that could be species or fishery specific, e.g. cod (not captured by trawls)
  - Study the divisions of ocean geography and their importance to Maine's small communities
  - Data layer update: color code or otherwise distinguish vessel tracks by fishery
  - Identify fisheries that do not have or require VMS
- Aquaculture
  - Assess the demographics of growth in the aquaculture industry—identify new entrepreneurs or commercial fishermen seeking alternative income source.
  - Identify the most economically and ecologically successful species for cultivation regionally and locally
- Lobstering
  - Categorize the lobster industry in terms of ocean geography and use

    - Collect spatial data on lobstering (fishermen to own data, i.e. not VMS).
    - Map location and intensity of lobster fishing
- Marine transportation
    - Identify changes in tug and barges with the expansion of the Panama Canal
    - Identify future trends in marine transportation
    - Do we need to update AIS data? How much inter-annual variability is there?
- Suggestions/Comments
    - Conduct qualitative research, including interviews with fishermen and other stakeholders
    - Fishing data is dynamic because of environmental factors; establish a plan to update the data.
    - Human impact has caused a gradient of change/gradient of conditions throughout the ecosystem. This gradient of conditions challenges our ability to manage the ecosystem. How do we manage along this gradient?

<u>Ecosystem Based Management</u>

- How EBM informs or interacts with management
    - Research how agencies can collaborate better to advance EBM and systems approach (see the National Academy of Sciences study, Sustainability for the Nation: Resource Connections and Governance Links).
    - Application of EBM tools to applied ocean planning
    - Coordinate research with agencies to ensure it is use-driven (e.g., work with new BOEM environmental studies NAS Advisory Committee to identify and fund priority projects)
    - Develop a restorative, adaptive management approach to ocean health—"think like an ocean" to identify what is needed to recover.
    - Research the best ways to provide data/information to inform adaptive management and how science-based knowledge can best support good management.
- Cumulative impacts
    - Create a uses-by-uses incompatibility matrix
    - Cumulative impacts/interacting stressors
    - Develop compatibility guidelines agreed upon by agencies and users
    - Factor biological assessment work into marine mammal models
    - Conduct project review 3-5 years after completion to determine impacts
    - Analyze the total number and/or impact (noise, disturbance, etc.) of projects across the region to support cumulative impacts analysis
    - Track cumulative impacts across the region to enable regional planning (e.g., create a database of sand borrow sites across the region to identify cumulative impacts).
    - Expand by-catch monitoring efforts
- Habitat

  - Standardized benthic habitat characterizations
  - Determine a baseline for benthic substrate pre and post project implementation
  - Clarifying species vs. habitat as in Maine's FMP for Rockweed. Is it species or habitat for other species?
  - Move toward implementing Coastal and Marine Ecological Classification System (CMECS) standards across the board
  - Evaluate the health of the fish and lobster stocks pre- and post-project implementation.
- Migratory corridors and connectivity
  - Characterize community dependence on specific areas of the ocean
  - Identify migratory corridors
  - Research nutrient changes compared to water temperature and bait fish migration
  - Research connectivity among keystone species
- Food webs and life history
  - How do interactions vary at different life stages?
  - Build understanding of the food web components within important habitats
- Ecosystem function
  - Create an index for ecosystem function to compare against as time progresses
  - Map ecological function through interviews with fishing captains
- EBM plan performance
  - Periodically survey users (stakeholders and agencies) to determine usefulness and effectiveness of the plan to create an ongoing data set that can be used to judge success of the planning effort over time.
  - Conduct a regulatory/legal assessment of the impacts of implementing EBM, including peer-reviewed analysis on state of EBM science and monitoring capabilities.
- General
  - Compile local ecological knowledge
  - Research how other fields define EBM, identify the insights they are gleaning from their efforts, and include an investigation of how to best manage ecosystems for recovery.
  - EBM needs to account for uncertainty in all sectors, especially in the natural world which is largely beyond management control.

<u>Changing Conditions</u>

- Ocean acidification
  - Monitor for ocean acidification, especially nearshore
  - Track ocean temperature/warming and acidification
  - Identify or update ocean acidification monitoring mechanisms for the region
  - Standardized ocean acidification collection/analysis methods
- Species and ecology changes

  - Identify shifting species within the region (i.e., southern species moving north) and how climate change (i.e., ocean acidification) may affect species distribution
  - Develop models to predict shifts in marine species in response to changing climate (temperatures, acidification, etc.) to identify likely future conflicts or problems, not just those of today
  - Identify system effects/changing conditions on fish stocks and how this variability informs management
  - Identify presence of new commercial and recreational fish species due to warming waters.
  - Characterize fisheries and species shifts
  - Characterize habitat changes
  - Predict emerging fisheries based on climate change, invasive species, evolving markets, etc.
  - Connect shifts of natural resources in bays/estuaries to open ocean
- Socioeconomic changes
  - Identify the areas and ecosystem communities most susceptible to various changes in environmental conditions (i.e., NRDC Ocean Acidification review of waters and communities that depend on shell-fish)
  - Determine the human communities most linked to particular ecosystems to identify who might be impacted by changing conditions
  - Track possible future gains that result from changes
  - Study how levels of economic prosperity have changed for different commercial fisheries
  - Measure and document lobstering within the region and determine what changes have occurred or will occur
- Climate, weather, human coastal
  - Sea level rise and coastal inundation
  - Frequency of larger/stronger storms
  - Study resilience frameworks since conditions may change dramatically and adaption will be needed, though this may not be possible if long-term leases are given for some ocean territories
  - Measure the extent/area of land based impacts (i.e., hypoxia, nitrification) to determine if it is getting worse.
- Baseline
  - Develop a process to measure and communicate trends and conditions
  - Develop baselines for a variety of environmental variables—temperature, salinity, pH, nutrients, etc.
  - Identify and analyze historical datasets to establish baselines
- Other
  - Create habitat layers showing carbon sequestration potential benefit (i.e., blue carbon, wetlands, eelgrass)

- Review research to date that relates to the ocean plan
- Ocean ecosystem goals need to consider changing conditions; transition to a new normal is an increasingly likely outcome. Effective planning and management needs to look to these future conditions.
- Leave a placeholder for science and research priorities that come up once the plan is initiated.

8. Ocean Plan Implementation: Responsibilities and Commitments

Mr. Weber presented a draft list of responsibilities and commitments that need to be assumed during Ocean Plan implementation and which are described in Chapter 4. The following list of functions was presented for initial feedback:

1. Forum for federal-tribal-state coordination – The RPB has facilitated communication and coordination across federal, tribal, and state representatives. There seems to be value in continuing to convene a similar forum during ocean plan implementation.
2. Plan updates to best practices, plan products, and guidance – Updates to best practices, plan data products, agency guidance, and other plan components will be needed during plan implementation. This function could also incorporate changes arising from monitoring of plan performance and other insights gained during plan implementation. It is possible that the process for routine data updates could be different than larger, comprehensive changes to the plan.
3. Public engagement to review progress toward achieving the plan's three goals, discuss monitoring results, and explore emerging issues – Public engagement will remain an important element to keep interested parties informed and provide opportunities to comment on progress, emerging needs and other ramifications of changing conditions, and other aspects of plan implementation.
4. Seek other partners to help implement the Science and Research Priorities identified in Chapter 5 and to leverage existing efforts related to ecosystem monitoring – Partnerships likely will be critical in the long-term to complete the many science and research priorities identified in the plan.
5. Updating and maintaining the data portal – This would include updating the priority data products in Chapter 3 of the plan, as well as other supporting data products in the data portal, general portal maintenance and technical support, and coordination and stakeholder engagement to continue updating the products in a transparent way.
6. Monitoring and evaluation – Develop and implement an adaptive management approach that both tracks plan performance and monitors ecosystem conditions, as described previously.
7. Science priorities – ensure oversight of the progress toward achieving science and data priorities and provide a forum for agency and project coordination.

Discussion

Participants generally seemed to support the seven commitments and responsibilities described. They commented on the activities they hope to continue during plan implementation and suggested some methods to continue those activities. Participant comments are summarized and grouped by theme.

- Communication
    - Forums for future coordination or collaboration and planning – Many participants provided examples of forums that would enable stakeholders to continue coordination and collaboration between federal, tribal, state representatives and stakeholders. Some suggested continuing to convene a federal-tribal-state representative forum such as the RPB. Others suggested convening a federal-tribal-state-public stakeholder forum. Several participants noted that many stakeholder groups gained significant insight and perspective on the issues of ocean planning by actively participating throughout the entire process thus far; they added that they would like to continue to be engaged during implementation and beyond to continue these trends. Another suggestion was to continue convening stakeholder forums or symposiums where multiple stakeholder groups and scientists can grapple with governance issues related to specific topics (e.g. marine aquaculture, sand and gravel mining, etc.). A participant also suggested convening forums to conduct regional future needs assessments and values identification processes in relation to specific topics such as energy or aquaculture. Such forums would allow agency staff to understand public perspectives on future needs and to hear how the public hopes to meet those needs. Such activities would enable the public to help agencies decide how to use ocean resources to achieve regional needs, rather than agencies just responding to industry proposals and interests.
    - Conflict resolution processes – A participant suggested that agencies commit to a conflict resolution process to help mediate conflict between user groups and agencies as tradeoffs are made among ocean uses.
    - Email listservs – Some participants suggested create of a listserv or Google Group that would enable different stakeholder groups, and federal, tribal, and state agency representatives, to continue to communicate with each other.
- Develop a common definition for ecosystem health and put the plan into practice – A participant suggested that agencies develop a shared definition of ecosystem health, as a basis for setting targets and assessing whether or not plan implementation is achieving the goals of the plan.
- Use the Ocean Plan - Several commenters suggested that agencies build on ocean planning momentum to actively apply the data in the portal and the ocean plan process to work on current topics such as aquaculture and sand and gravel mining.
- Continued stakeholder and agency support and political commitment – Some participants commented on the need for both stakeholder groups and agencies to commit to sustained, active support of ocean planning, despite the uncertainty of whether or not future administrations will support ocean planning efforts. Stakeholder groups can continue to contribute data to the portal and can actively raise awareness of and foster support for the use

of the ocean plan by advocating for its use to legislators and regulators. Agencies could commit to assign a high level staff member the task of ensuring plan implementation occurs throughout the agency. Staff members overseeing implementation could meet periodically to assess progress toward achieving the goals of the plan.

- Public education – Participants commented on the need to conduct outreach to the general public to educate them about ocean ecosystem health, how ocean resource management has occurred and how it will occur during ocean plan implementation, and to highlight the successes and failures of management efforts.

9. Next Steps and Wrap Up

Betsy Nicholson thanked participants for contributing during the day and the planning team for organizing the Forum. She reflected on the need to hold agencies accountable, the importance of stakeholder input throughout the process, and the need for collective ownership of and continued support for the plan as it moves into implementation. She encouraged the participants to attend the November RPB meeting.

Other RPB members closed the meeting by offering additional words of appreciation for the wide-ranging discussion and their commitments to work actively in the final phase of the development of the Ocean Plan.

APPENDICES

- Appendix A: Forum Participants
- Appendix B: Presentation

Appendix A: Forum Participants

Category	First Name	Last Name	Organization
Public Participant	Mark	Alexander	CT Department of Energy & Environmental Protection/NEFMC
Public Participant	Amalia	Almada	Knauss Sea Grant Fellow at NOAA
Public Participant	Jackie	Ball	NERACOOS
Public Participant	Robert	Ballou	RI Department of Environmental Management
Public Participant	Adam	Baske	Natural Resources Defense Council
Public Participant	Priscilla	Brooks	Conservation Law Foundation
Public Participant	Aimee	Bushman	Conservation Law Foundation
Public Participant	Laura	Cantral	Meridian Institute
Public Participant	Beth	Casoni	Massachusetts Lobstermen's Association
Public Participant	Alison	Chase	Natural Resources Defense Council
Public Participant	Rebecca	Clark Uchenna	Island Institute
Public Participant	Downey	Brian	Maine Pilotage Commission
Public Participant	Melissa	Gates	Surfrider Foundation
Public Participant	Ashley	Green	
Public Participant	Brent	Greenfield	National Ocean Policy Coalition
Public Participant	Annie	Hawkins	Fisheries Survival Fund
Public Participant	Tricia	Jedele	Conservation Law Foundation
Public Participant	David	Kaiser	NOAA
Public Participant	Jerry	Keefe	U.S. EPA OCP
Public Participant	Jen	Kennedy	Blue Ocean Society for Marine Conservation
Public Participant	Wendy	Lull	Seacoast Science Center
Public Participant	Sally	McGee	The Nature Conservancy
Public Participant	Chris	McGuire	The Nature Conservancy
Public Participant	Lindsey	McKenna	NOAA OER
Public Participant	Anne	Merwin	Ocean Conservancy
Public Participant	Kyle	Molton	Penobscot East Resource Center
Public Participant	Molly	Morse	SeaPlan
Public Participant	Stephanie	Moura	SeaPlan

Public Participant	Valerie	Nelson	Water Alliance
Public Participant	Richard	Nelson	F/V Pescadero
Public Participant	Glenn	Normandeau	NH Fish & Game Department
Public Participant	Tom	Robben	Connecticut Ornithological Association
Public Participant	Jennifer	Seavey	Shoals Marine Laboratory
Public Participant	Derek	Sowers	NOAA
Public Participant	Paul	Stacey	Great Bay National Estuarine Research Reserve
Public Participant	Susan	Sullivan	NEIWPCC
Public Participant	Peter	Taylor	Waterview Consulting
Public Participant	Amy	Trice	Ocean Conservancy
Public Participant	Prassede	Vella	MA Office of Coastal Zone Management
Public Participant	John	Williamson	Sea Keeper Fishery Consulting
Public Participant	Sarah	Winter Whelan	American Littoral Society
Public Participant	Peter	Zaykoski	SeaPlan
RPB-Federal	Robert	LaBelle	Bureau of Offshore Energy Management
RPB-Federal	Regina	Lyons	U.S. EPA Region 1
RPB-Federal	Ivy	Mlsna	U.S. EPA
RPB-Federal	Betsy	Nicholson	NOAA
RPB-Federal	Chris	Tompsett	U.S. Navy/Department of Defense
RPB-State	Bruce	Carlisle	MA Office of Coastal Zone Management
RPB-State	Matthew	Nixon	Maine Coastal Program
RPB-State	Emily	Norton	Maine Coastal Program
RPB-State	Christian	Williams	New Hampshire Coastal Program
Support Staff	Deerin	Babb-Brott	SeaPlan
Support Staff	Dory	Dinoto	Consensus Building Institute
Support Staff	Ona	Ferguson	Consensus Building Institute
Support Staff	Patrick	Field	Consensus Building Institute
Support Staff	Katie	Lund	Northeast Regional Ocean Council
Support Staff	Benjamin	Miller	ERG
Support Staff	Nick	Napoli	Northeast Regional Ocean Council
Support Staff	Eric	Roberts	Consensus Building Institute
Support Staff	Emily	Shumchenia	Northeast Regional Ocean Council, E&C Enviroscape
Support Staff	John	Weber	Northeast Regional Ocean Council

Appendix B: Presentation Slides

Draft NE Ocean Plan Development Timeline

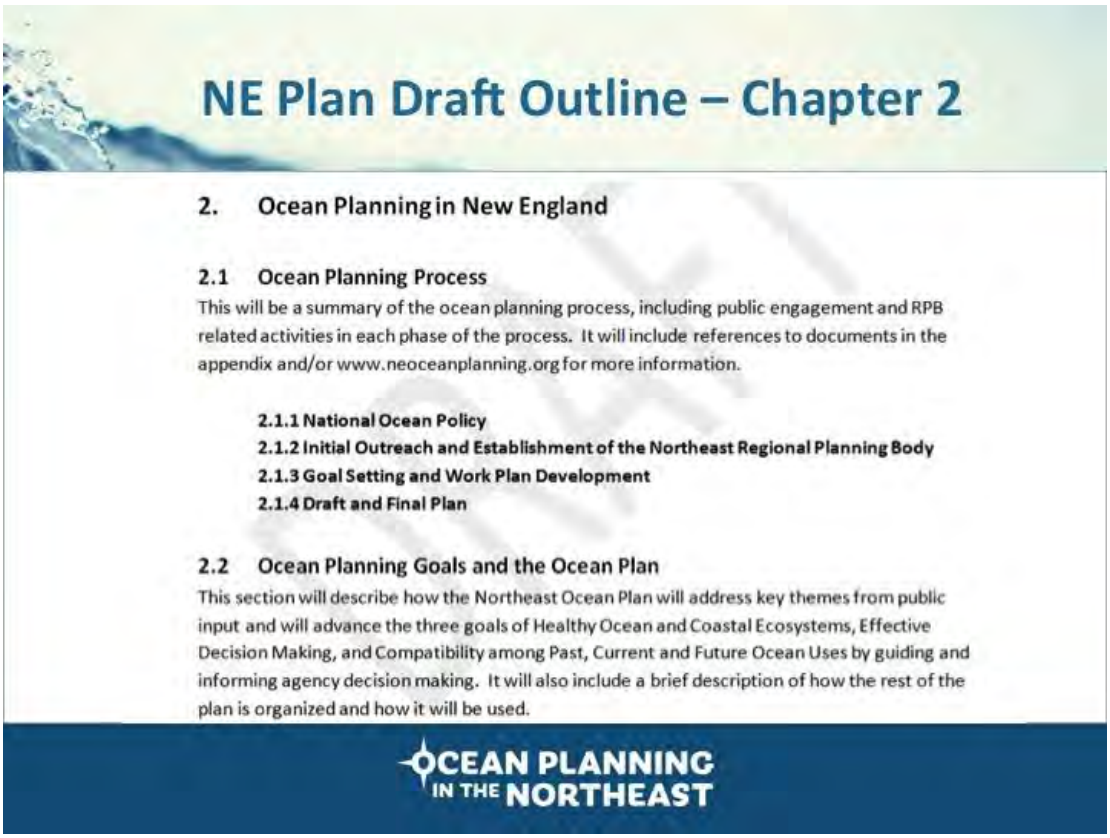
Note: schedule is approximate and will be modified as milestones are achieved; the exact timing of activities will evolve.

Activities	2015					2016									
A. Draft Northeast Ocean Plan	July Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct
1. Drafting Sections 1 & 2 of NE Plan and related Agency Guidance															
2. EBM Work Group meetings		9/30													
3. Stakeholder Forum			10/20												
4. RPB Meeting				11/16 11/17											
5. Complete Draft NE Plan and Agency Guidance															
6. RPB internal review of Draft NE Plan and Agency Guidance															
7. RPB meeting and public release of Draft NE Ocean Plan and Agency Guidance															
B. Public Comment and Final NE Plan															
1. Public meetings and comment (45 days)															
2. Plan revisions and response to comment															
3. RPB internal review of Final NE Plan and Agency Guidance															
4. RPB meeting and submission of plan to NOC															
5. NOC/Agency review, concurrence and adoption of NE Plan and Agency Guidance															

NE Plan Draft Outline

1. New England Offshore Environment and the Need for Ocean Planning
2. Ocean Planning in New England
3. The Regulatory Environment and Management Actions
4. Ocean Plan Implementation
5. Science and Research Priorities

OCEAN PLANNING IN THE NORTHEAST


NE Plan Draft Outline – Chapter 2
2. Ocean Planning in New England
2.1 Ocean Planning Process
This will be a summary of the ocean planning process, including public engagement and RPB related activities in each phase of the process. It will include references to documents in the appendix and/or www.neoceanplanning.org for more information.
2.1.1 National Ocean Policy
2.1.2 Initial Outreach and Establishment of the Northeast Regional Planning Body
2.1.3 Goal Setting and Work Plan Development
2.1.4 Draft and Final Plan
2.2 Ocean Planning Goals and the Ocean Plan
This section will describe how the Northeast Ocean Plan will address key themes from public input and will advance the three goals of Healthy Ocean and Coastal Ecosystems, Effective Decision Making, and Compatibility among Past, Current and Future Ocean Uses by guiding and informing agency decision making. It will also include a brief description of how the rest of the plan is organized and how it will be used.
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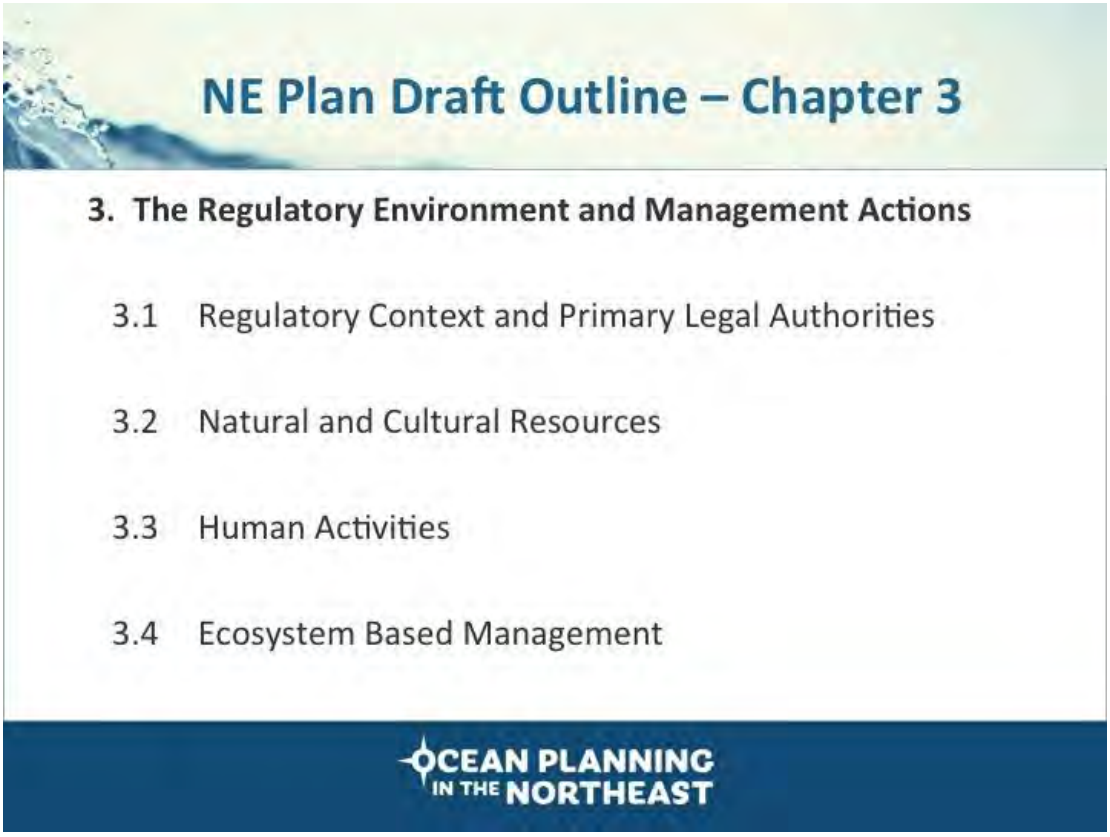
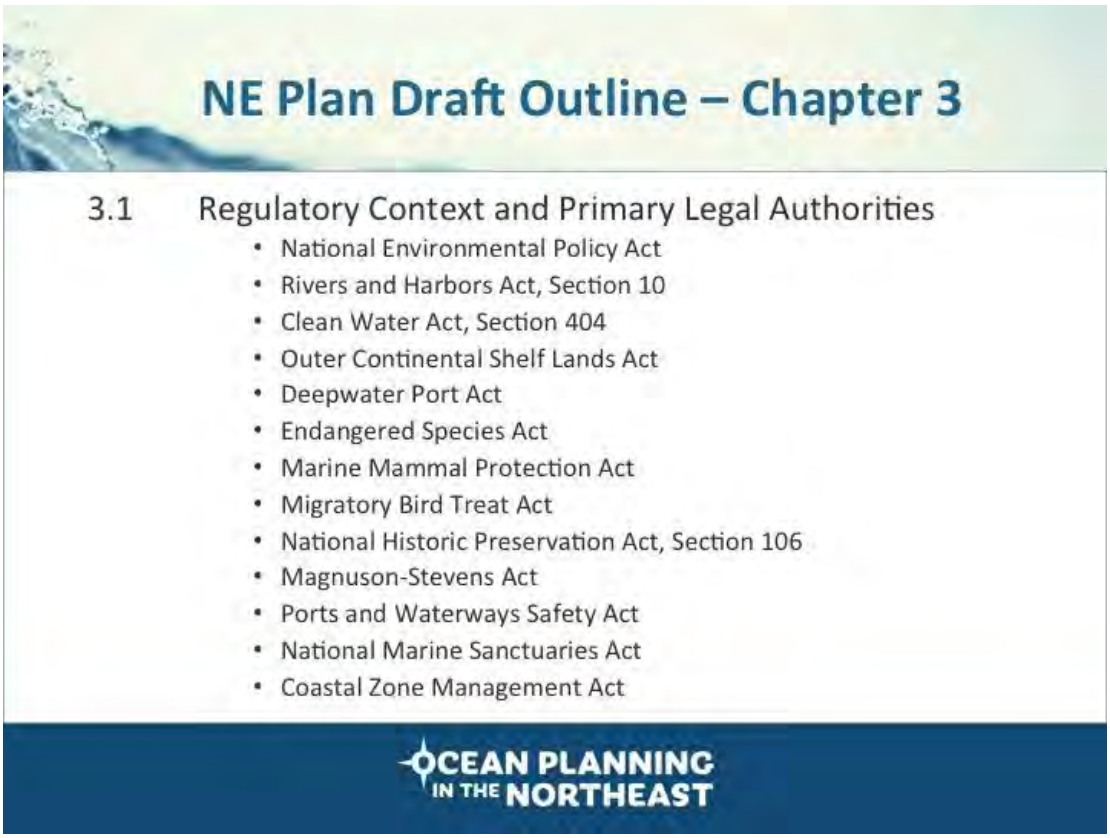
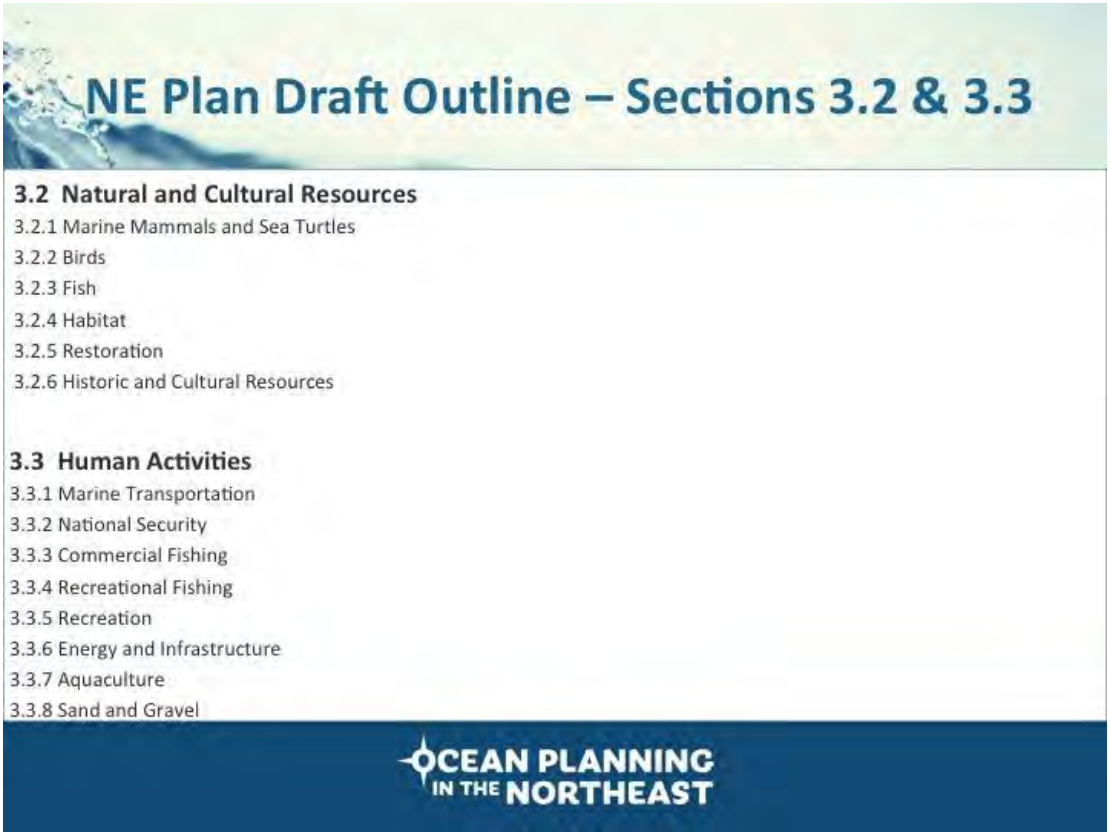

NE Plan Draft Outline – Chapter 3
3. The Regulatory Environment and Management Actions
3.1 Regulatory Context and Primary Legal Authorities
3.2 Natural and Cultural Resources
3.3 Human Activities
3.4 Ecosystem Based Management
OCEAN PLANNING IN THE NORTHEAST


NE Plan Draft Outline – Chapter 3
3.1 Regulatory Context and Primary Legal Authorities
• National Environmental Policy Act
• Rivers and Harbors Act, Section 10
• Clean Water Act, Section 404
• Outer Continental Shelf Lands Act
• Deepwater Port Act
• Endangered Species Act
• Marine Mammal Protection Act
• Migratory Bird Treat Act
• National Historic Preservation Act, Section 106
• Magnuson-Stevens Act
• Ports and Waterways Safety Act
• National Marine Sanctuaries Act
• Coastal Zone Management Act
OCEAN PLANNING IN THE NORTHEAST


NE Plan Draft Outline – Sections 3.2 & 3.3
3.2 Natural and Cultural Resources
3.2.1 Marine Mammals and Sea Turtles
3.2.2 Birds
3.2.3 Fish
3.2.4 Habitat
3.2.5 Restoration
3.2.6 Historic and Cultural Resources
3.3 Human Activities
3.3.1 Marine Transportation
3.3.2 National Security
3.3.3 Commercial Fishing
3.3.4 Recreational Fishing
3.3.5 Recreation
3.3.6 Energy and Infrastructure
3.3.7 Aquaculture
3.3.8 Sand and Gravel
OCEAN PLANNING IN THE NORTHEAST

NE Plan Draft Outline – Sections 3.2 & 3.3

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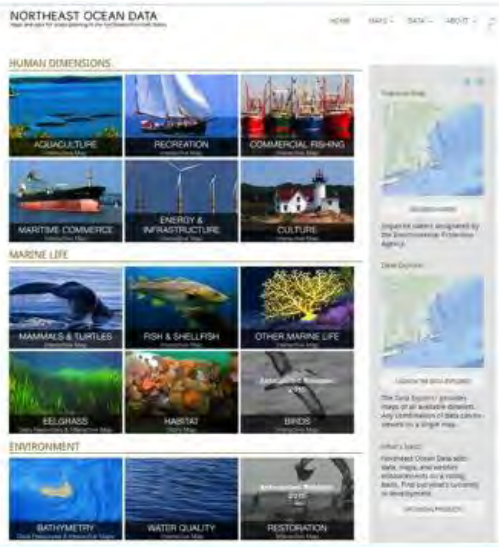

OCEAN PLANNING IN THE NORTHEAST

NE Plan Draft Outline – Sections 3.2 & 3.3

3.2 Natural and Cultural Resources

3.2.1 Marine Mammals and Sea Turtles
3.2.2 Birds
3.2.3 Fish
3.2.4 Habitat
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3.3.3 Commercial Fishing
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3.3.8 Sand and Gravel

For each section:

A. Overview
B. Ocean Plan Maps and Data
C. Description of how relevant agencies intend to use ocean plan data in existing regulatory and management programs
D. Additional information sources and existing management programs
E. Long term maintenance of ocean plan maps and data, including brief mention of science priorities to be further detailed in Section 5
F. Other related RPB agency initiatives and coordination activities

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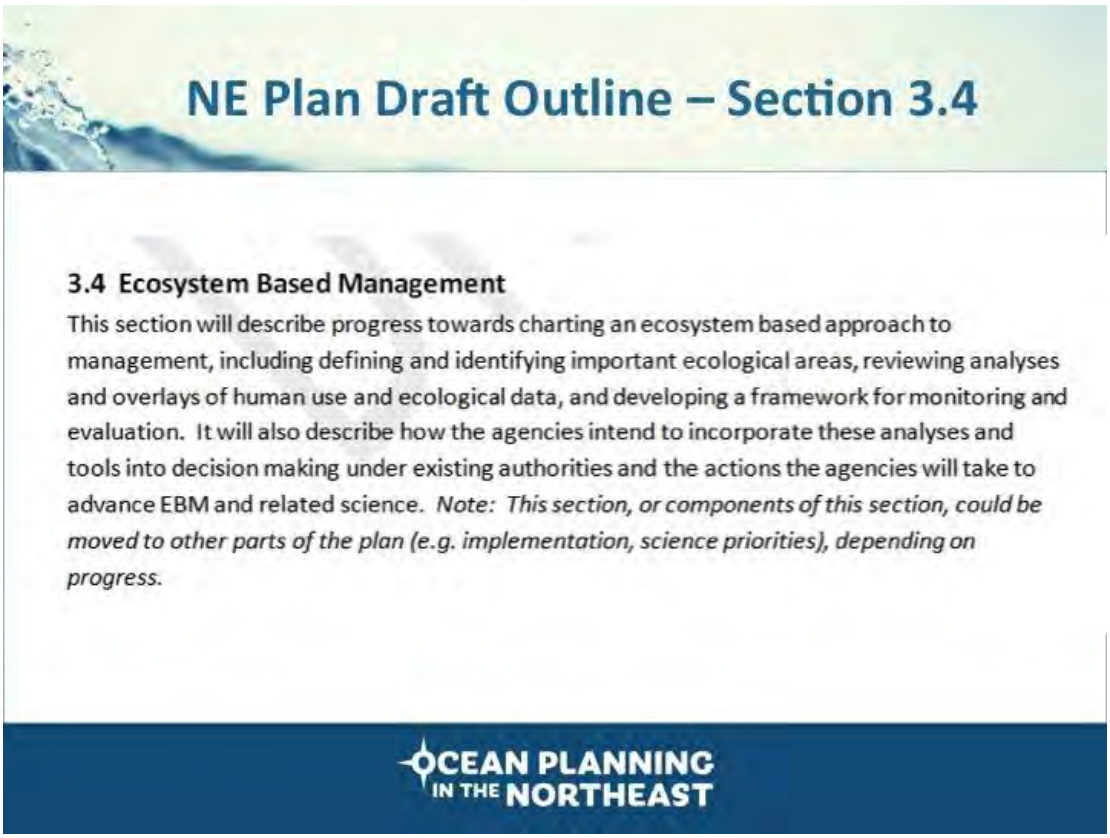
NE Plan Draft Outline – Section 3.4
3.4 Ecosystem Based Management
This section will describe progress towards charting an ecosystem based approach to management, including defining and identifying important ecological areas, reviewing analyses and overlays of human use and ecological data, and developing a framework for monitoring and evaluation. It will also describe how the agencies intend to incorporate these analyses and tools into decision making under existing authorities and the actions the agencies will take to advance EBM and related science. Note: This section, or components of this section, could be moved to other parts of the plan (e.g. implementation, science priorities), depending on progress.
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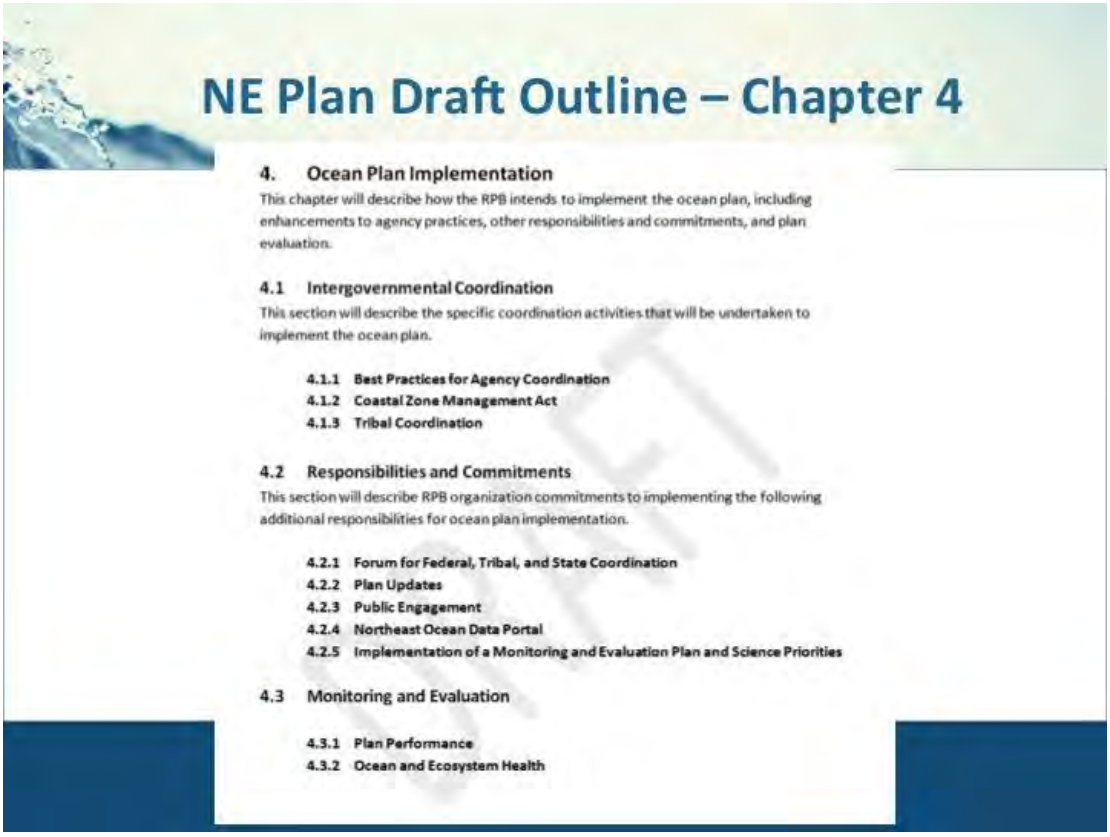
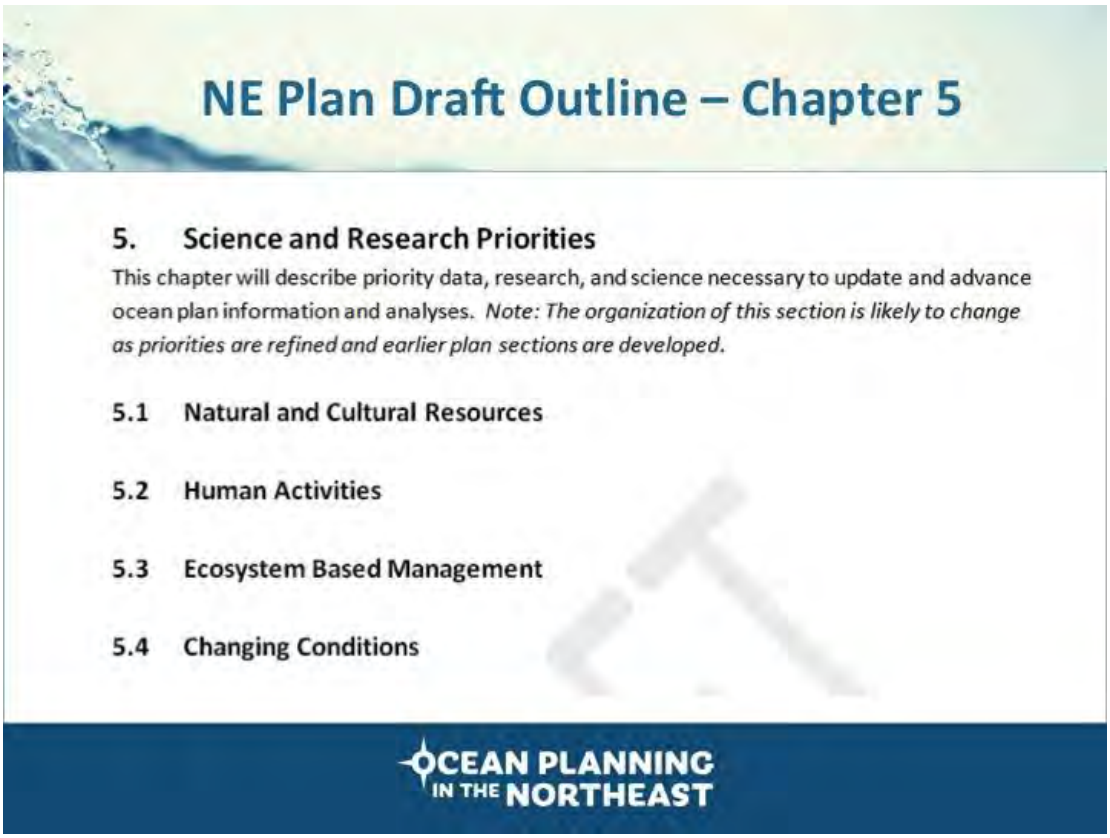
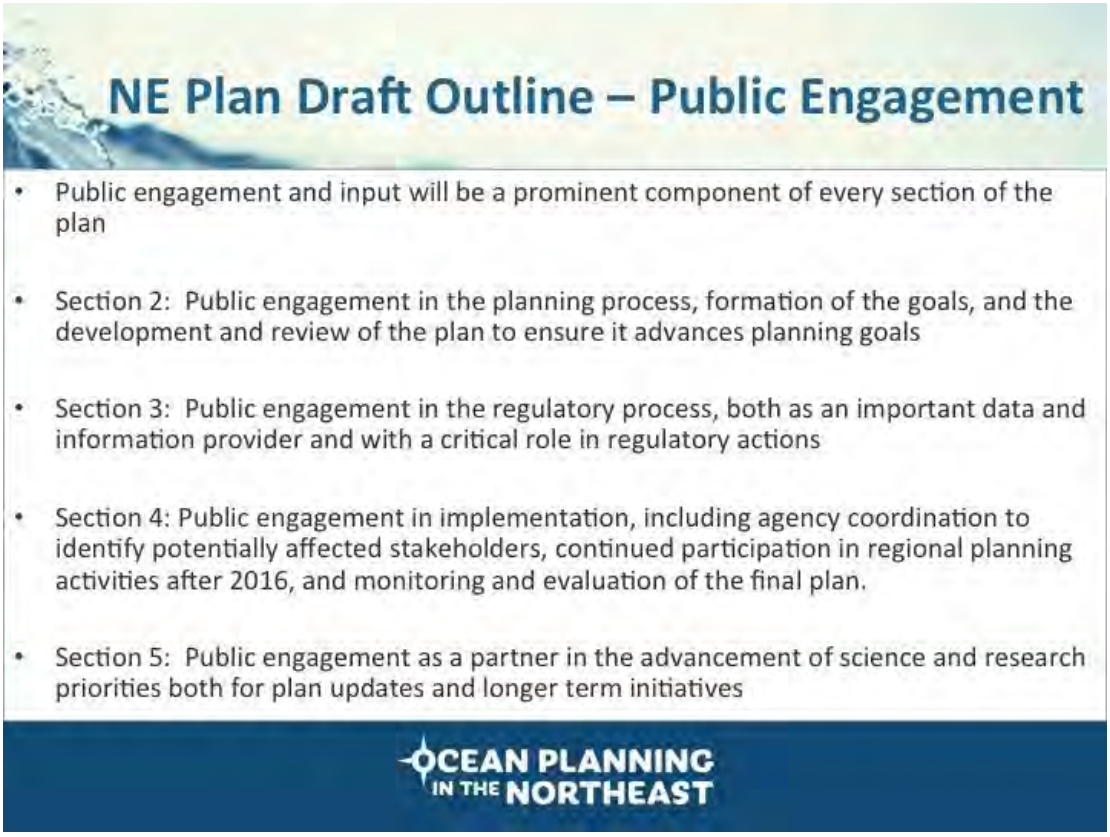

NE Plan Draft Outline – Chapter 4
4. Ocean Plan Implementation
This chapter will describe how the RPB intends to implement the ocean plan, including enhancements to agency practices, other responsibilities and commitments, and plan evaluation.
4.1 Intergovernmental Coordination
This section will describe the specific coordination activities that will be undertaken to implement the ocean plan.
4.1.1 Best Practices for Agency Coordination
4.1.2 Coastal Zone Management Act
4.1.3 Tribal Coordination
4.2 Responsibilities and Commitments
This section will describe RPB organization commitments to implementing the following additional responsibilities for ocean plan implementation.
4.2.1 Forum for Federal, Tribal, and State Coordination
4.2.2 Plan Updates
4.2.3 Public Engagement
4.2.4 Northeast Ocean Data Portal
4.2.5 Implementation of a Monitoring and Evaluation Plan and Science Priorities
4.3 Monitoring and Evaluation
4.3.1 Plan Performance
4.3.2 Ocean and Ecosystem Health


NE Plan Draft Outline – Chapter 5
5. Science and Research Priorities
This chapter will describe priority data, research, and science necessary to update and advance ocean plan information and analyses. Note: The organization of this section is likely to change as priorities are refined and earlier plan sections are developed.
5.1 Natural and Cultural Resources
5.2 Human Activities
5.3 Ecosystem Based Management
5.4 Changing Conditions
OCEAN PLANNING IN THE NORTHEAST


NE Plan Draft Outline – Public Engagement
• Public engagement and input will be a prominent component of every section of the plan
• Section 2: Public engagement in the planning process, formation of the goals, and the development and review of the plan to ensure it advances planning goals
• Section 3: Public engagement in the regulatory process, both as an important data and information provider and with a critical role in regulatory actions
• Section 4: Public engagement in implementation, including agency coordination to identify potentially affected stakeholders, continued participation in regional planning activities after 2016, and monitoring and evaluation of the final plan.
• Section 5: Public engagement as a partner in the advancement of science and research priorities both for plan updates and longer term initiatives
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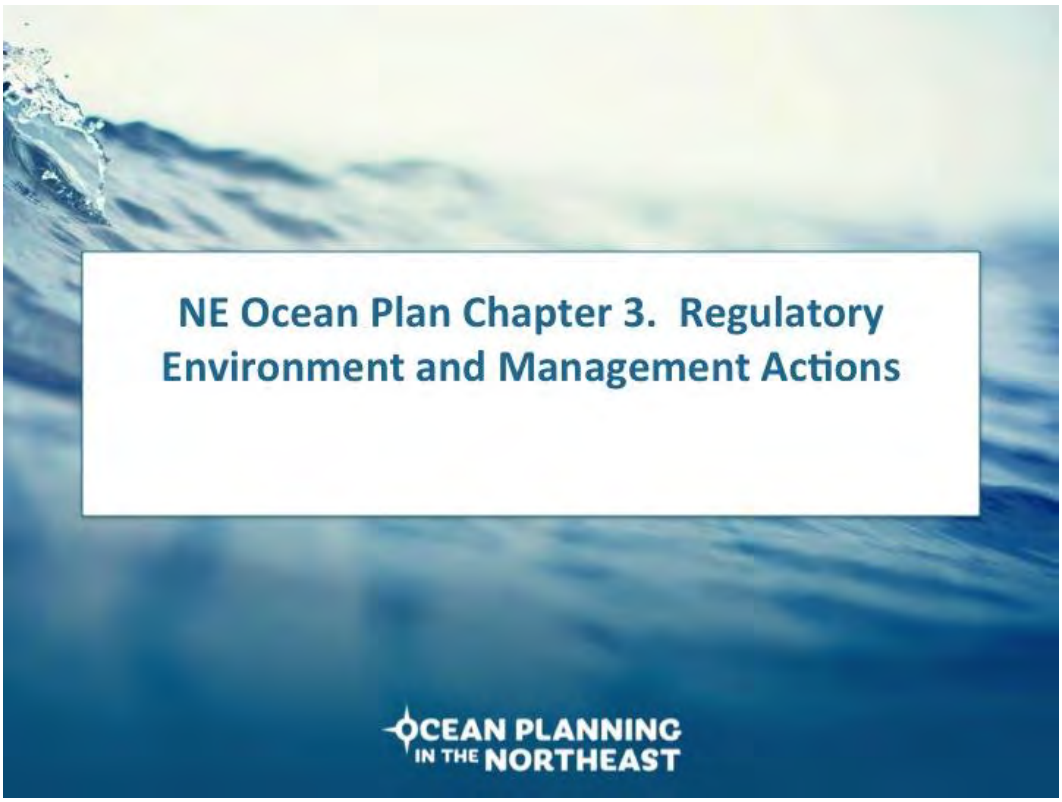

Sections 3.2 and 3.3 Update

3.2 Natural and Cultural Resources
- 3.2.1 Marine Mammals and Sea Turtles
- 3.2.2 Birds
- 3.2.3 Fish
- 3.2.4 Habitat
- 3.2.5 Restoration
- 3.2.6 Historic and Cultural Resources

3.3 Human Activities
- 3.3.1 Marine Transportation
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For each section:

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D. Additional information sources and existing management programs
E. Long term maintenance of ocean plan maps and data, including brief mention of science priorities to be further detailed in Section 5
F. Other related RPB agency initiatives and coordination activities

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Sections 3.2 and 3.3 Update

- Marine life and habitat data:
  - Online viewers with species level base products are near complete
  - Abundance, richness, and diversity products for regulatory and ecologically-based species groupings are being developed; vulnerability-based species groupings are being considered
- Restoration: NE Portal to be updated with restoration sites by end of year – to coincide with draft section of the plan
- Historic and Cultural resources: Working with tribes and agencies to develop plan content
- Human use data mostly complete and being added to the portal; anything new is likely a future priority to be listed in Section 5
- Sections 3.2 and 3.3 are beginning to be drafted and will provide agency guidance about the use of ocean plan maps and data under existing authorities

OCEAN PLANNING IN THE NORTHEAST

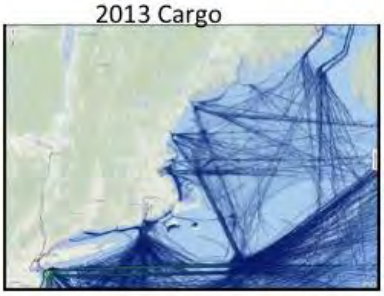
Sections 3.2 and 3.3 Update

Marine Transportation

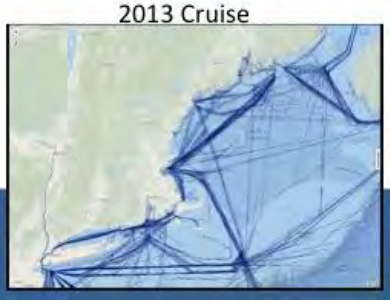
- Data portal being updated with 2013 AIS data after extensive industry review
- Data portal will still include 2011 and 2012 data

2013 Tug/Tow

2013 Cargo



2013 Cruise



2013 Ferry/Whale Watch

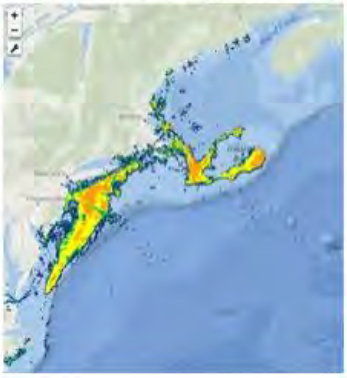
Sections 3.2 and 3.3 Update

Commercial Fishing

- Data portal to be updated with 19 Vessel Monitoring System maps that have been extensively reviewed
- Update will also include a map of relevant federal fishery management areas

2011- 2014 Scallops

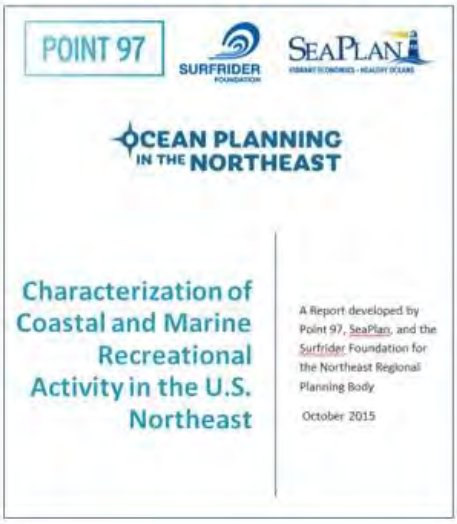
2011- 2014 Scallops < 5 Knots



Sections 3.2 and 3.3 Update

Recreation

- Recreational characterization recently completed
- Whale watching, SCUBA, distance races, and recreational activity points being added to the data portal
- Updated recreation theme on the NE Portal to be completed shortly



Sections 3.2 and 3.3 Update

Marine Life Data

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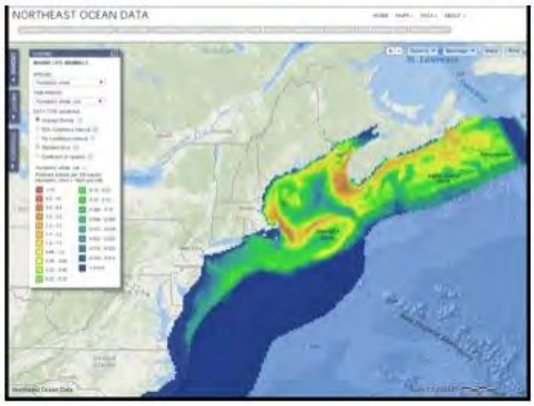
Marine Life Data

Online viewers to view base products nearly complete



Sections 3.2 and 3.3 Update

Marine Life Data

Summary products under development

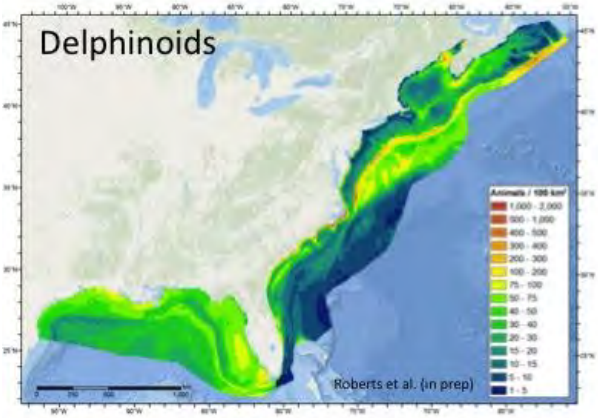
OCEAN PLANNING IN THE NORTHEAST

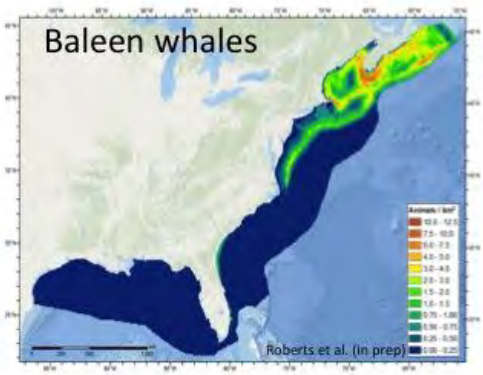
Species grouping options…

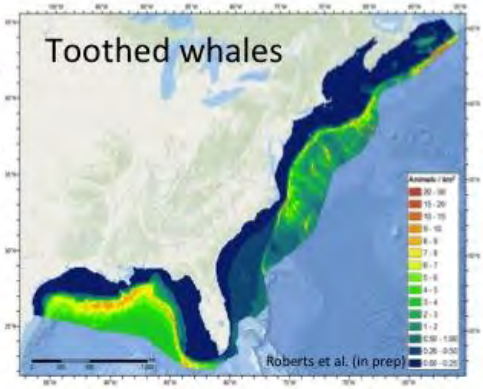
Marine mammals	Avian	Fish
• All cetaceans • Baleen whales • Small delphinoids • Large delphinoids • Sperm and beaked whales • All ESA-listed species • Sensitivity to sound (low, mid, and high frequencies)	• Spatial (nearshore, offshore) • Taxonomic (terns, gulls, etc.) • Ecological/functional (plunge-divers, surface divers) • Conservation/authority (State-listed, BCR priorities, AMBCC priorities)	• All species • Elasmobranch • Flatfish • Forage • Gadoid • Invertebrate • Other demersal • Other fish • Pelagic • EFH • Fishery Management Plans

Groups are not mutually exclusive; some groups may require longer term research

Example Mammal groups - Abundance

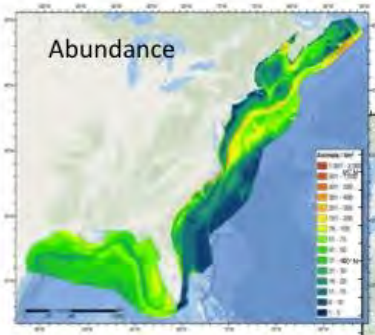


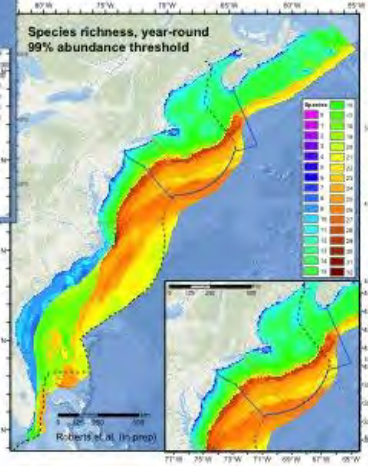


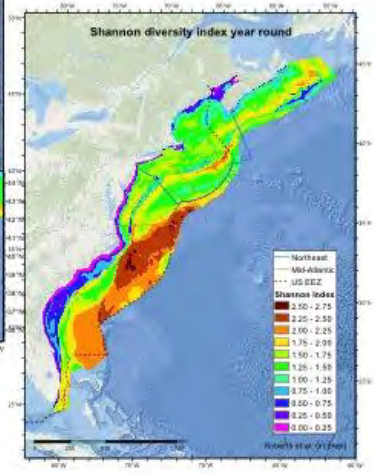


Example Taxa Hotspots: Abundance, Richness, Diversit

Using 99% pop threshold







All Cetaceans

Example Taxa Hotspots: Abundance, Richness, Diversity

All Birds

Abundance Hotspots

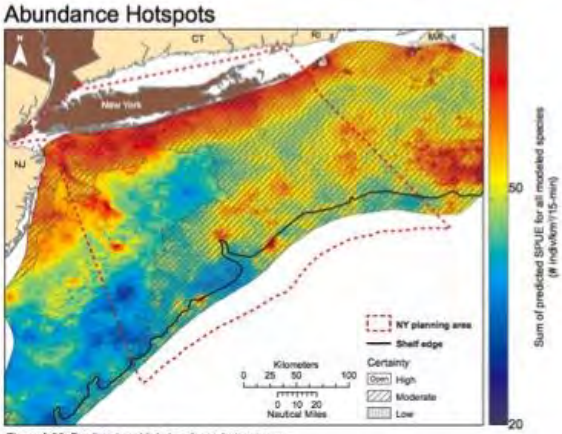
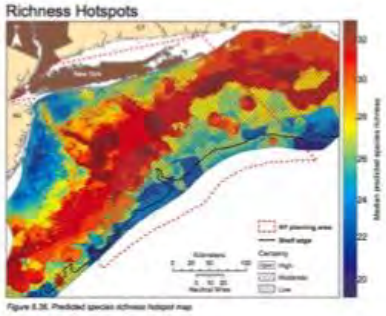
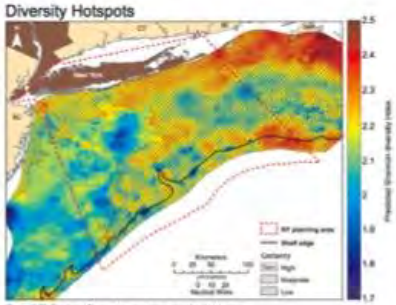


Figure 6.35. Predicted seabird abundance hotspot map.

Richness Hotspots



Diversity Hotspots



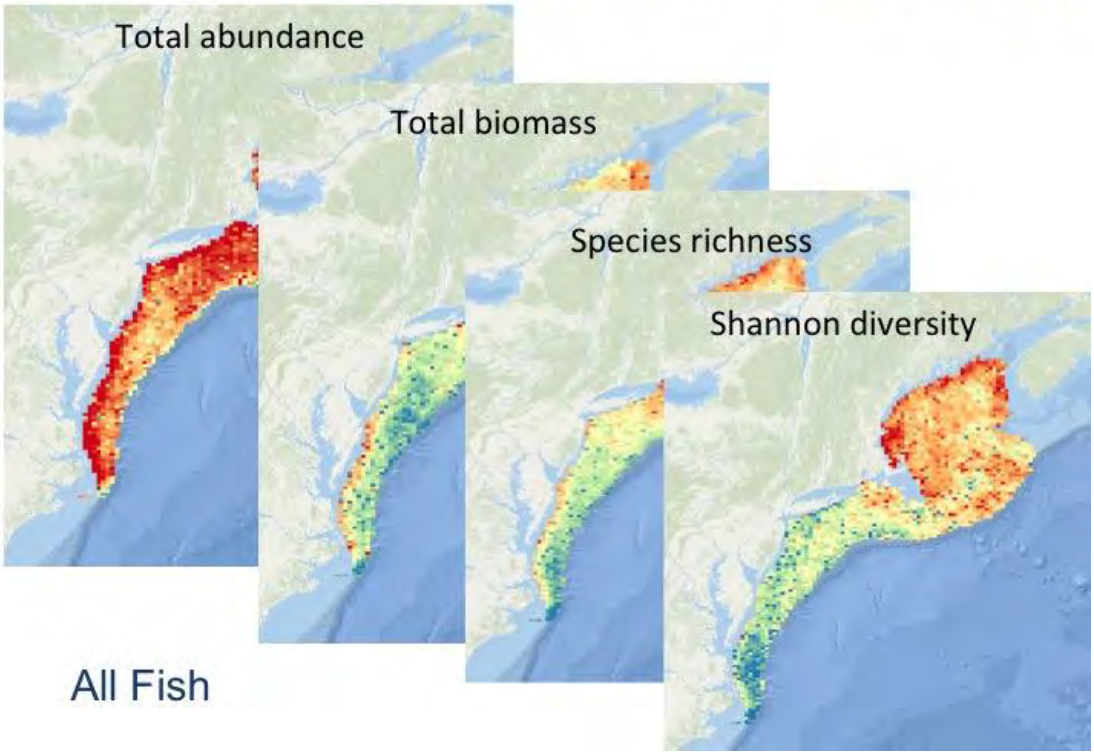
Examples from NOAA Technical Memorandum – NOS NCCOS 141

Example Fish groups - Biomass

Forage fish
Elasmobranchs
Flatfish
Gadoids
Invertebrates
Pelagics
Other demersals
Other fishes

- Northern sand lance
- Alewife
- Atlantic herring
- Butterfish
- Blueback herring
- Atlantic mackerel
- Atlantic menhaden
- American shad
- Hickory shad
- Capelin
- American sand lance

Example Taxa Hotspots: Abundance, Richness, Diversity



Ecosystem Based Management Work Group Update

- EBM WG established as an outcome of the April 2015 EBM Workshop and June 2015 RPB meeting
- First meeting on 9/30/15:
  - Review marine life data
  - Review habitat data and provide input on priority habitat characteristics that should be characterized
  - Review initial ideas for identifying "important ecological areas" by synthesizing marine life and habitat data
- Subsequent meetings:
  - Provide input on ecological and human use data overlays
  - Provide input on monitoring and evaluation
  - Provide input on science and research priorities

OCEAN PLANNING IN THE NORTHEAST

Ecosystem Based Management Work Group Update

- Recommended priority habitat data that should accompany marine life data (possibly incorporated into below)
- Recommended RPB defines "important ecological areas" in terms of their various components (rarity, diversity, vulnerability, spawning/ breeding areas, migration, etc.)
- Staff, with MDAT support, will suggest a set of components and their potential to be mapped in the short and long term
- "Ecologically rich areas", term being used in MidA, can be one of the components with potential to be mapped in short term

OCEAN PLANNING IN THE NORTHEAST

NE Ocean Plan Chapter 4. Ocean Plan Implementation:
4.1.1 Best Practices for Agency Coordination

*Note the following best practices are being provided as examples to elicit ideas and feedback

OCEAN PLANNING IN THE NORTHEAST

Background

- Regulatory Work Group identified early coordination and use of Portal data/Plan information as key benefits
- Options for Effective Decision-Making report identified and RPB concurred that Best Practices could be developed; outline reviewed in June
- EPA and NMFS have provided initial feedback; seeking same from USACE, USCG, USN; will be coordinating with tribes to address similar issues
- Working report to be provided for RWG/RPB review, anticipating prior to the November RPB meeting
- Originally described narrowly as best practices for pre-application review; has been broadened as "best practices for agency coordination" to capture range of applicability

OCEAN PLANNING IN THE NORTHEAST

Purpose

Support and provide for:

- The use of relevant information from the data portal, the Plan, stakeholders, and other sources;
- A common initial understanding of the proposed project;
- Clear and efficient direction for the applicant;
- Informed stakeholder engagement in the planning, review, and/or regulatory process; and
- Coordinated federal, state, and tribal review as appropriate.

OCEAN PLANNING IN THE NORTHEAST

Categories and examples

- Participation in early coordination
  - *Federal agencies subject to Executive Order #13547 should engage in early coordination as a general practice, and should do so consistent with these best practices, as appropriate.*
  - *The lead agency should ensure that all agencies with potential interests in NEPA review and USACE permitting receive notice of, and an opportunity to participate in, agency coordination.*
- Use of data and information
  - *Project proponents and agencies should use the data portal and associated textual and graphical information contained in the Plan as a primary initial source of information to inform agency coordination and project review under authorities described in Chapter 3.1.*

OCEAN PLANNING IN THE NORTHEAST

Categories and examples

- Coordination with stakeholders
  - *In the context of the proposed project, agencies and the proponent should discuss how stakeholder interests are addressed by applicable authorities, and agencies with subject-matter jurisdiction should specifically identify management provisions that require characterization of stakeholder interests.*
- Coordination with states
  - *Federal agencies serving as either a project proponent or a lead agency should use the agency coordination process to discuss with a state(s) that has state jurisdiction over the proposed project whether a coordinated approach to NEPA and regulatory review should be considered. On a project-specific basis, such discussion will be influenced by a range of existing statutory, regulatory, administrative, and/or practical measures.*
- Coordination with tribes – will be coordinating with tribes to develop.

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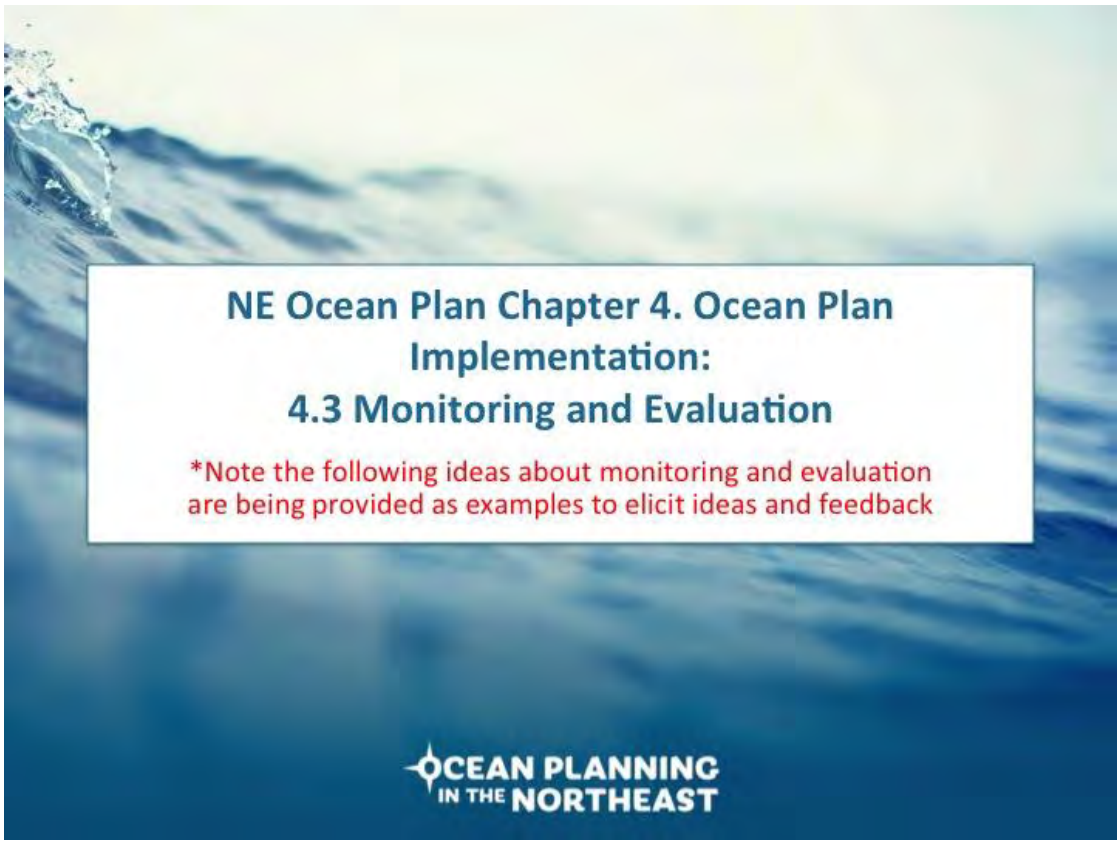

Background & Assumptions

- Plan framework includes an objective to "Periodically assess progress toward achieving regional ocean planning goals"
- Support adaptive management approach, which includes two components:
  - Plan performance
  - Ocean and ecosystem health
- Development and application of related indicators can be difficult:
  - Identify "cause-and-effect" type of relationships?
  - Identify quantifiable metrics (e.g. indicators that can be supported by hard numbers)
- Much literature on this topic; NOP calls for adaptive approach

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General Approach

- For each component, provide information for the following questions:
  - What do we want to achieve (what are the goals)?
  - How we will measure progress toward what we want to achieve? (Indicators)
    - Stories/anecdotes/qualitative data can be helpful but are qualitative
    - Quantitative data can be helpful but difficult to obtain
    - Want as direct a correlation as possible between outcome and goal
- Analysis of indicator results supports future "what do we need to change" discussion

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Monitoring Ocean and Ecosystem Health: potential approaches

- Integrated Sentinel Monitoring Network (ISNM)
  - Provides long-term strategy for monitoring benthic, pelagic, and coastal components of the ecosystem that are management priorities
  - Does not directly include human uses/socio-economic considerations
- Ocean Health Index (OHI)
  - Provides strategy for combining ecological, socio-economic, and cultural considerations to provide context for ocean management
  - Quantitative, repeatable, comprehensive tool to inform decision making by measuring multiple metrics of ecosystem condition building on existing data and information

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Monitoring Ocean and Ecosystem Health: ISMN

- ISMN Science and Implementation Plan is a joint NROC and NERACOOS effort
- Input from over 60 scientists and managers from 45 state and federal agencies, universities, NGOs, and Canada DFO
- Long Island Sound to the Canadian border
- Inventories present monitoring activities

Integrated Sentinel Monitoring Network for Change in Northeast U.S. Ocean and Coastal Ecosystems

Draft Science and Implementation Plan – August 6, 2015

A project of the Joint Northeast Regional Ocean Council and Northeastern Regional Association of Coastal and Ocean Observing Systems Ocean and Coastal Ecosystem Health Committee

ABSTRACT

The Northeast U.S. region spans a range of ocean and coastal environments from Long Island Sound to the Canadian border in the eastern Gulf of Maine, and includes ecologically and economically rich ecosystems. Climate change, living resource harvesting, and increasing human populations are altering the structure and function of these ecosystems. Ecosystem changes are not only threatening the sustainability of marine and human communities, but also challenging managers to make decisions about marine resources under novel conditions with high degrees of uncertainty. In response to these changes and challenges, this document describes a plan to sustain an adaptive sentinel monitoring program that watches for key changes, informs researchers, managers, and the public about ecosystem status and vulnerabilities, and supports an integrated, ecosystem-based management framework for adaptive responses to changes in ecosystem states.

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Monitoring Ocean and Ecosystem Health: ISMN

- Recommends benthic, pelagic and coastal/ estuarine sentinel indicators of ecosystem change (many that coincide with key marine life and habitat data components in Section 3 of the plan)
- Recommends enhancements to present observing activities
- Considers implementation of the ISMN, including new infrastructure needs
- Identifies needs, challenges and recommendation for data product management and dissemination

Acknowledgements

The Integrated Sentinel Monitoring Network is a multi-agency, university and research organization effort led by the Northeast Regional Ocean Council and the Northeastern Regional Association of Coastal and Ocean Observing Systems.

Project Co-Chairs

Melville Cote
U.S. Environmental Protection Agency
Cote.Mel@epa.gov

Jeffrey Runge
University of Maine and Gulf of Maine Research Institute
Jeffrey.Runge@maine.edu

Brian Thompson
Department of Energy and Environmental Protection, Connecticut
Brian.Thompson@ct.gov

Participating Organizations

Bigelow Laboratory for Ocean Sciences
Bowdoin College
Brown University
Casco Bay Estuary Partnership
Connecticut College
Connecticut Department of Energy and Environmental Protection
Connecticut Sea Grant Program
Fisheries and Ocean Canada
Great Bay National Estuarine Research Reserve
Gulf of Maine Council Ecosystem Indicator Partnership
Gulf of Maine Research Institute
Hurricane Island Foundation
Maine Coastal Observing Alliance
Maine Department of Marine Resources
Maine Geological Survey
Massachusetts Bays National Estuary Program
Massachusetts Division of Marine Fisheries
Massachusetts Office of Coastal Zone Management
Massachusetts Water Resources Authority
Massachusetts Institute of Technology Sea Grant
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Regional Association of Coastal Ocean Observing Systems
New England Interstate Water Pollution Control Commission
New Haven University
Northeastern University
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U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service
U.S. Geological Survey
University of Connecticut
University of Maine
University of Massachusetts Boston
University of New Hampshire
University of Rhode Island
Wells National Estuarine Research Reserve
Woods Hole Oceanographic Institution

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Monitoring Ocean and Ecosystem Health: OHI

- Recognizes humans and human activities as part of the ecosystem
- Establishes ten human goals to be tracked – these could be closely tied to ocean planning goals and objectives
- Establishes reference points for each goal, allowing it to be tracked over time or to evaluate potential consequences of actions
- Can use best available regional data and indicators established through the NE Ocean Plan, NE Ocean Data Portal, and other regional efforts (ISMN?)

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Plan Performance: Examples for Healthy Coasts and Ocean Ecosystem Goal

Objectives:

I. Characterize the ecosystem, economy and cultural resources

II. Support existing restoration and conservation programs

III. Develop regional ocean science plan

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Plan Performance: Examples for Healthy Coasts and Ocean Ecosystem Goal

- Does the plan identify and support non-regulatory opportunities to work toward conserving, restoring, and maintaining healthy ecosystems?
  - *Are existing restoration programs identified and supported? If yes, how?*
- Does the plan contain a science plan to prioritize ocean science and data needs?
  - *What's missing? What's being implemented/addressed? Are there emerging needs?*

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Plan Performance: Examples for Effective Decision-Making Goal

Objectives:

I. Enhance inter-agency coordination

II. Implement specific actions to enhance public participation

III. Incorporate products into existing decision-making

IV. Improve respect for tribal customs and traditions in decision-making

V. Improve coordination with local communities in decision-making

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Plan Performance: Examples for Effective Decision-Making Goal

- Are existing government management and regulatory decisions coordinated?
  - *If so, how have pre-existing practices been altered? Are best practices for agency coordination being used? Can anything be said about the pace of regulatory decisions start to finish? Are there other opportunities to enhance existing practices?*
- Has public input in existing practices been enhanced?
  - *If so, how? Are there examples of implementing best practices to build on? If not, what are other opportunities?*
- Have ocean plan products and data been incorporated into agency decision-making?
  - *If yes, what are examples/be specific. How have these products affected decision-making? Can track metrics such as numbers of users of the data portal, but difficult to assign any significance to that. Agencies can track use of data portal in project applications and public comment, or used in permit applications and public comment.*

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Plan Performance: Examples for Compatibility Among Uses Goal

Objectives:

I. Increase understanding of compatibility between past, current, and future interactions and the ocean ecosystem

II. Ensure regional issues addressed on ongoing efforts to assess new human activities

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Plan Performance: Examples for Compatibility Among Uses Goal

- Does the plan increase understanding of past, current, and future interactions among ocean uses and the ocean and coastal ecosystem?
  - *If so, how? How has such understanding translated into effective decision-making?*

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NE Ocean Plan Chapter 5. Science and Research Priorities

*Note the following science and research priorities responsibilities are being provided as examples to elicit ideas and feedback

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Science and Research Priorities

5.1 Natural and Cultural Resources
5.2 Human Activities
5.3 Ecosystem Based Management
5.4 Changing Conditions

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Science and Research Priorities

5.1 Natural and Cultural Resources
- 5.1.1 Marine Mammals and Sea Turtles
- 5.1.2 Birds
- 5.1.3 Fish
- 5.1.4 Habitat
- 5.1.5 Historic and Cultural Resources

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Science and Research Priorities

5.1 Natural and Cultural Resources

- 5.1.1 Marine Mammals and Sea Turtles
- 5.1.2 Birds
- 5.1.3 Fish
- 5.1.4 Habitat
- 5.1.5 Historic and Cultural Resources

For each:

- Updates to Ocean Plan Data Products
- New Research
- Programs and efforts to leverage

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Science and Research Priorities – Some examples

5.1 Natural and Cultural Resources

5.1.1 Marine Mammals and Sea Turtles

A. Product Updates

- Incorporate additional survey data into the model and update plan products
- Develop a companion data product showing survey effort over time

B. New Research

- Identify geographies and times requiring additional observations and provide model criteria for use in designing any new survey to ensure data are used
- Study the effects of various disturbances and develop products for species groups sensitive to those disturbances

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Science and Research Priorities – Some examples

5.1 Natural and Cultural Resources

5.1.5 Historic and Cultural Resources

A. Product Updates

- Update the map of National Register of Historic Places as sites are added

B. New Research

- Continue and expand research to identify submerged paleocultural landscapes
- Expand efforts to incorporate traditional knowledge, specifically:
  - Develop a database of navigational place names
  - Develop a database of tribal traditional knowledge to be accessible along with other data/information products

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Science and Research Priorities

5.1 Natural and Cultural Resources

5.2 Human Activities

- 5.2.1 Marine Transportation
- 5.2.2 National Security
- 5.2.3 Commercial Fishing
- 5.2.4 Recreational Fishing
- 5.2.5 Recreation
- 5.2.6 Energy and Infrastructure
- 5.2.7 Aquaculture
- 5.2.8 Sand and Gravel

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Science and Research Priorities – Some examples

5.2 Human Activities

5.2.1 Marine Transportation

A. Product Updates

- Update AIS vessel density products annually
- Expand on monthly time series data to better understand variation in intra-annual traffic

B. New Research

- With industry input, develop and implement a methodology for counting unique transits
- Develop a tool to select areas with a certain number or percentage of unique transits

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Science and Research Priorities – Some examples

5.2 Human Activities

5.2.3 Commercial Fishing

A. Product Updates

- Update VMS vessel density products annually

B. New Research

- Develop a method to characterize fishing effort using VMS, VTR, and state permit information
- Develop a method to link areas of fishing effort to specific communities

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Science and Research Priorities

5.1 Natural and Cultural Resources

5.2 Human Activities

5.3 Ecosystem Based Management

5.4 Changing Conditions

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Science and Research Priorities – Some examples

5.1 Natural and Cultural Resources

5.2 Human Activities

5.3 Ecosystem Based Management

- Organizational structure to evolve as the subject advances through the EBM Work Group and the RPB
- Science and research priorities may depend on how far the plan can take any specific topic
- Initial ideas:
  - Habitat classification
  - Important Ecological Areas organized into its components (biodiversity, primary productivity, life stage – feeding/breeding/spawning)
  - Ecosystem service production and value
  - Cumulative impacts – stressors, vulnerability, method to quantify impacts

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Science and Research Priorities
5.1 Natural and Cultural Resources
5.2 Human Activities
5.3 Ecosystem Based Management
5.4 Changing Conditions
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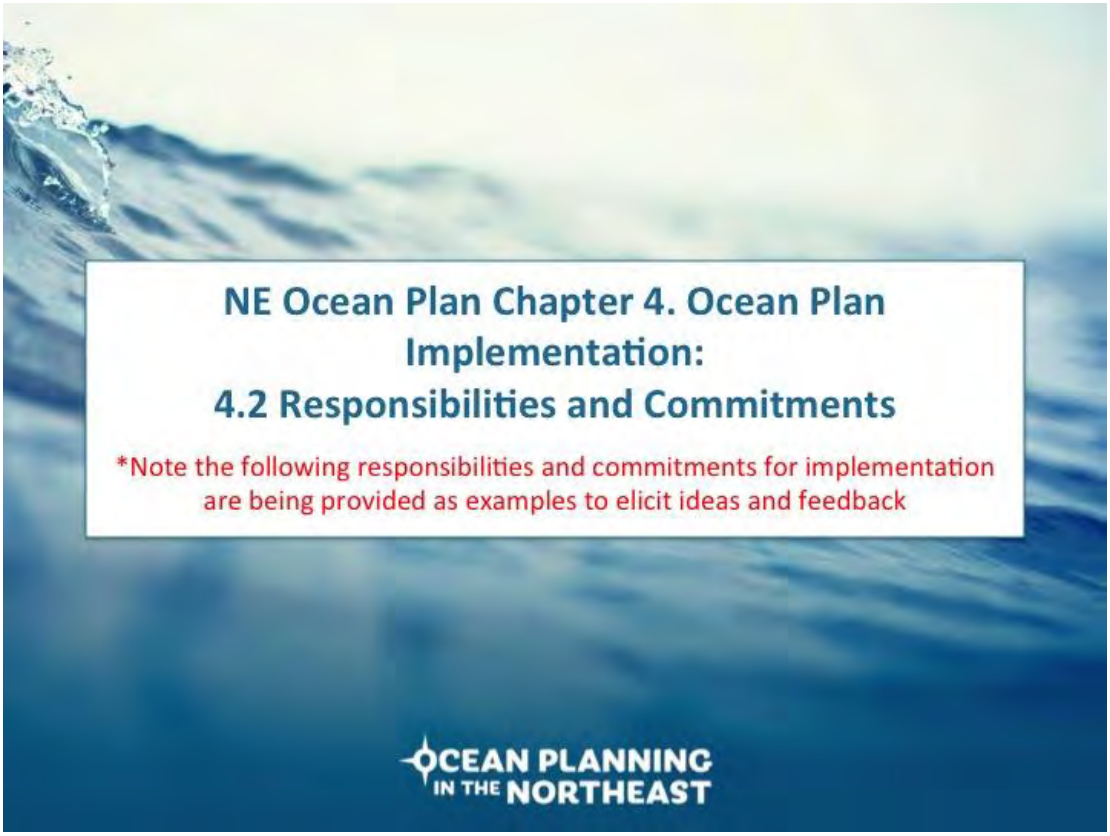
NE Ocean Plan Chapter 4. Ocean Plan Implementation:
4.2 Responsibilities and Commitments
*Note the following responsibilities and commitments for implementation are being provided as examples to elicit ideas and feedback
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Potential Responsibilities and Commitments*

1. Forum for federal-tribal-state coordination?
2. Plan updates to best practices, plan products and guidance.
3. Public engagement to review progress toward achieving three goals, results of indicators and monitoring, discuss emerging issues, etc.
4. Seek other partners to help implement priorities in Section 5 and/or leveraging existing efforts related to ecosystem monitoring

*NOTE: for all implementation considerations, consider leveraging existing resources and being practical

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Potential Responsibilities and Commitments*

5. Data Portal
   - Priority data products referenced in Section 3
   - Other supporting data products
   - General maintenance and technical support
   - Coordination and stakeholder engagement for above responsibilities

*NOTE: for all implementation considerations, think about leveraging existing resources and being practical

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Potential Responsibilities and Commitments*
6. Monitoring and evaluation – develop and implement an adaptive management approach by:
– Tracking plan performance
– Monitoring the ecosystem
7. Science Priorities
– Oversight of progress toward achieving science and data priorities
– Forum for agency and project coordination
*NOTE: for all implementation considerations, think about leveraging existing resources and being practical
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Document 4.2
The Coastal Zone Management Act and regional ocean plans discussion paper

THE COASTAL ZONE MANAGEMENT ACT AND REGIONAL OCEAN PLANS — A DISCUSSION PAPER

October 2015 — DRAFT

This paper was prepared to enhance Regional Planning Body discussions as they prepare regional ocean plans under the Ocean Policy Executive Order

This paper provides information from NOAA's perspective and is intended solely to support and enhance discussions by Regional Planning Bodies as they explore options for effective decision making under the Coastal Zone Management Act and regional ocean plans – this paper does not represent the viewpoint of any other federal agency, state agency or tribal government.

CONTENTS:

Prepared by
David Kaiser, Senior Policy Analyst
Office for Coastal Management
National Ocean Service
National Oceanic and Atmospheric Administration

SUMMARY

The Northeast and Mid-Atlantic Regional Planning Bodies are evaluating the potential synergy between the Coastal Zone Management Act (CZMA) and regional ocean plans as tools to make CZMA decisions in a more efficient, streamlined and coordinated manner.

1. ENHANCING FEDERAL NOTICE TO STATES and TRIBES

A regional ocean plan can improve coordination and communication between federal agencies, states and tribes and enhance effective decision making for CZMA review purposes state-by-state and regionally. The earlier a federal agency can provide notice of a proposed federal action, the more time states and tribes will have to mobilize resources and efficiently and effectively alert a federal agency or applicant of the potential issues that should be addressed. In addition, enhanced notice could help states identify "unlisted activities" that states may want to seek NOAA approval to review for CZMA federal consistency purposes. Some proposed options that could be RPB recommendations include:

- Locate a "proposed federal action" notification site on the Regional Planning Body Data Portal and the Data Portal could be set up so that an automatic email is sent to state and tribal contacts when a notice is placed on the Data Portal; or
- A list serve of state and tribal contacts federal agencies could use for direct notification.

Two primary operational issues to consider are:

1. What federal actions would be included for early notification list and when could a federal agency issue notification?
2. Who would be responsible to ensure the early notification is used, contacts kept up to date, etc.?

2. CZMA COASTAL EFFECTS DETERMINATIONS

Under the Coastal Zone Management Act and National Oceanic and Atmospheric Administration (NOAA) regulations there are times when states, federal agencies and applicants for federal authorizations need to evaluate potential coastal effects for a proposed federal action. A particular issue is when states need to make a coastal effect analysis to show that there is a **causal connection** between an activity and coastal effects.

The information and data in a regional ocean plan and its related Data Portal could be used to show where state coastal uses are occurring, e.g., commercial or recreational fishing effort for certain species at different time of the year. This available spatial and temporal information, which can be displayed in an effective visual manner, should be useful and persuasive when evaluating coastal effects. In addition, a regional ocean plan and its related Data Portal should contribute to effective and efficient decisions for the location of new uses and activities.

3. CZMA FEDERAL CONSISTENCY AGREEMENTS

The Coastal Zone Management Act regulations contain provisions that may be used to facilitate and streamline federal consistency reviews and these provisions could be used to support

regional ocean plans. The efficiencies that can be built into a regional ocean plan using the CZMA regulations include: (1) developing effects-based thresholds for state CZMA reviews; (2) developing a "general consistency determination" to cover multiple occurrences of a federal action; and (3) exclusion of specific federal actions from CZMA consistency reviews (e.g., where beneficial coastal effects or de minimis coastal effects are determined through ocean planning and supported by information in the Data Portal). A Regional Planning Body could develop and include CZMA state-federal agreements, federal agency consistency determinations and state concurrences in a regional ocean plan or agree with the objective and develop the CZMA documents, determinations and concurrences state-by-state.

NOAA, after discussions with the federal agencies, identified three federal agencies' activities to illustrate this option. These are the Federal Emergency Management Agency (FEMA), the U.S. Coast Guard (USCG) and the U.S. Navy. The material in this discussion paper could form an outline for general consistency determinations for 15 C.F.R. Part 930, Subpart C or general consistency concurrences for Subpart D, E and F. The Data Portal and state enforceable policies would then provide the details for effects, thresholds, etc. Regional Planning Bodies may agree to some, all, none or a modification of these activities.

For each agency there are paragraphs where additional detail can be provided: Categories Exempted from Future CZMA Review; Thresholds or Triggers for State Review; Notification (to alert states when a federal agency is undertaking an exempted activity); Coastal Effects; and Consistency with State Enforceable Policies.

Examples of activities proposed for CZMA review thresholds or exemption from CZMA review	
FEMA	**FEMA-Funded Emergency Work**: A. Debris Removal B. Emergency Protective Measures **FEMA-Funded Permanent Work**: C. Roads and Bridges D. Water Control Facilities E. Buildings and Equipment F. Utilities G. Parks, Recreational Facilities, and Other Items
USCG	**Excluded federal agency activities:** 1. Regulated navigation areas pursuant to 33 C.F.R. § 110, excluding changes to vessel traffic services pursuant to 33 U.S.C. § 1223; 2. Drawbridge operation regulations pursuant to 33 C.F.R. §117; 3. Establishment and maintenance of public (federal) aids to navigation; 4. Temporary speed zones or navigation modifications due to marine mammals; and 5. Temporary federal mooring or anchorage areas, excluding permanent areas pursuant to 33 U.S.C. § 471. **Excluded federal licenses and permits**: 1. Regattas and marine parades pursuant to 33 C.F.R. § 100 ; 2. Establishment of private aids to navigation; and 3. Scientific sampling (benthic, pelagic, and water column)
NAVY	**Surface and submerged military training and testing exercises**

PURPOSE

The Northeast Regional Planning Body (RPB) and the Mid-Atlantic RPB are each developing a regional ocean plan pursuant to President Obama's Ocean Policy Executive Order 13547.[1] The ocean planning "framework" in the *Final Recommendations of the Interagency Ocean Policy Task Force* (July 19, 2010)[2] describe regional planning objectives and provides the blueprint for RPBs to develop a regional ocean plan.

This paper provides the Northeast RPB, through its Regulatory Work Group, and the Mid-Atlantic RPB, through its Inter-Jurisdictional Coordination Workgroup, a discussion of how the Coastal Zone Management Act (CZMA) could be used to meet, in part, the Northeast RPB's effective decision making objective and the Mid-Atlantic RPB's sustainable ocean uses goal.

Regional ocean plans are non-regulatory, non-zoning, and operate exclusively under existing authorities. Regional ocean plans do not require a particular outcome in any one proposed action. A regional ocean plan does not exclude any coastal or ocean activity; rather it addresses current and emerging conditions and uses. The objective of a regional ocean plan is a more proactive, integrated and ecosystem-based approach to managing our ocean and Great Lakes uses, resources and ecological functions by improving federal, state and tribal decision-making under existing authorities through the use of data and other baseline information, interagency coordination, and enhanced public and stakeholder participation. Moreover, the Ocean Policy and objectives for regional ocean plans contain many important goals related to the health, sustainability and use of the oceans; the success and usefulness of a regional ocean plan will be largely based on how it supports:

- Better informed policy and project-specific decisions; and
- Project and policy decisions being made in a more efficient, streamlined and coordinated manner.

The RPBs have similar objectives that address the Ocean Policy's call for ocean health, ecosystem-based management, sustainable ocean uses, resilient coastal communities and improved and streamlined decision making. The Northeast RPB has established several working groups to develop plan components around the following three overarching goals for its regional ocean plan:

1. Healthy ocean ecosystems;
2. Effective decision making; and
3. Compatibility among past, current, and future ocean uses.

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[1] 75 Fed. Reg. 43022-43027 (July 22, 2010).

[2] https://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf. Implementation of the ocean policy by federal agencies is further described in the National Ocean Council's *National Ocean Policy Implementation Plan* (April 2013). https://www.whitehouse.gov//sites/default/files/national_ocean_policy_implementation_plan.pdf

The Mid-Atlantic RPB has also established working groups around the following similar goals for its regional ocean plan:

1. Promote ocean ecosystem health, functionality, and integrity through conservation, protection, enhancement, and restoration; and
2. Plan and provide for existing and emerging ocean uses in a sustainable manner that minimizes conflicts, improves effectiveness and regulatory predictability, and supports economic growth.

This paper builds on previous discussions and documents. The paper is also intended to present options for discussion of CZMA federal consistency agreements as tools for streamlining procedures and improving decision making while preserving transparency to the public.[3] These CZMA options include the following.

> **Coastal Zone Management Act** — Investigate opportunities to apply ocean plan data and guidance to inform implementation of the CZMA and enhance the efficiency of CZMA consultation with federal agencies on ocean activities by:
>
> 1. Enhancing federal notice to states of federal actions;
> 2. Improving the ability of states and others to determine CZMA coastal effects for federal consistency purposes through the use of spatial data and other information that could be included in a regional ocean plan, including the development of geographic location descriptions for federal consistency review of specific activities; and
> 3. Minimizing routine CZMA reviews by identifying routine or emergency-type federal actions, the use of general consistency determinations and supporting the development of agreements addressing review of minor or de minimis and repetitive federal actions.

If an RPB decides to pursue any of these options it does not mean all details for an option must be worked out within a regional ocean plan or any action-related document. Rather, an RPB could decide that an option is an objective or action item of the RPB and that the federal agencies and states will work out the details with NOAA assistance. If an RPB needs a lead or "champion" for any of the CZMA federal consistency related options, NOAA's Office for Coastal Management can be identified as the lead.

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[3] These CZMA objectives for regional ocean plans were foreseen from the beginning of the Ocean Policy through discussions with the Ocean Policy Task Force and were briefly described in the *Final Recommendations of the Interagency Ocean Policy* Task Force (July 19, 2010). NOAA expanded on the CZMA objectives in *STATE JURISDICTION AND FEDERAL WATERS: State Coastal Management Programs, Ocean Management and Coastal and Marine Spatial Planning*, (October 6, 2011). This 2011 document was produced by NOAA, in coordination with the National Ocean Council, to respond to questions by coastal states on how CZMA federal consistency might apply to regional ocean plans.

CZMA FEDERAL CONSISTENCY PROVISION

Before discussing the three CZMA options, it is important to have a basic understanding of federal consistency.[4] Federal consistency requires that federal actions that have reasonably foreseeable effects on any land or water use or natural resource of a state's coastal zone (also referred to as coastal uses or resources, or coastal effects) be consistent with the enforceable policies of a state's federally approved coastal management program. Federal consistency provides states with an important tool to manage coastal uses and resources and to facilitate cooperation and coordination with federal agencies. Under the CZMA, *federal agency activities* that have coastal effects must be consistent to the maximum extent practicable with the enforceable policies of a state's federally approved coastal management program. In addition, the CZMA requires non-federal applicants for federal authorizations and federal funding to be consistent with enforceable policies of state coastal management programs.[5] There are four types of federal actions under the CZMA:

1. ***Federal agency activities*** — activities and development projects performed by a federal agency, or a contractor for the benefit of a federal agency. 16 U.S.C. § 1456(c)(1) – (2) and 15 C.F.R. Part 930, **Subpart C**.

2. ***Federal license or permit activities*** — activities performed by a non-federal entity requiring federal permits, licenses or other form of federal authorization. 16 U.S.C. § 1456(c)(3)(A) and 15 C.F.R. Part 930, **Subpart D**.

3. ***OCS plans*** — Department of the Interior/Bureau of Ocean Energy Management approvals for outer continental shelf plans (oil and gas exploration plans and development and production plans and also some authorizations for renewable energy, pursuant to the Outer Continental Shelf Lands Act). 16 U.S.C. § 1456(c)(3)(B) and 15 C.F.R. Part 930, **Subpart E**.

4. ***Federal assistance to state and local governments*** — Federal funding for activities with coastal effects to a state or local government entity. 16 U.S.C. § 1456(d) and 15 C.F.R. Part 930, **Subpart F**. (Tribal governments, private entities or other groups not part of state or local government would be covered as a federal agency activity under Subpart C.)

A lead state agency coordinates a state's coastal management program and state federal consistency reviews. At the federal level, NOAA's Office for Coastal Management, among other duties and services, oversees the application of federal consistency; provides management and

[4] CZMA § 307 (16 U.S.C. § 1456) and NOAA's regulations (15 C.F.R. Part 930).

[5] None of the CZMA options discussed in this paper alter the process or the manner in which federal agencies and applicants for federal authorizations and funding submit consistency determinations or consistency certifications to states.

policy assistance to coastal states, federal agencies, tribes and others; and mediates CZMA related disputes. NOAA's Office of General Counsel Oceans and Coasts Section assists the Office for Coastal Management and processes CZMA appeals to the Secretary of Commerce.

The CZMA Federal Consistency Effects Test

At the heart of federal consistency is the "effects test." A federal action is subject to CZMA federal consistency requirements if the action will have reasonably foreseeable effects on a state coastal use or resource (in accordance with NOAA's regulations). The effects test applies to activities and uses or resources that occur outside a state's coastal zone, as long as the uses or resources impacted are, in fact, uses or resources of a state's coastal zone.

Federal Agency Activities and the Effects Test — For federal agency activities under Subpart C, regardless of the location of the activity or where the coastal effects occur (within the coastal zone, in federal waters, or in another state), a federal agency provides a state(s) with a consistency determination if the activity will have reasonably foreseeable coastal effects. The federal agency determines whether its activity will have coastal effects. Federal agency activities under Subpart C must be "consistent to the maximum extent practicable," which means "fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency."[6] If a state objects to a federal agency's consistency determination, NOAA's regulations encourage the state and federal agency to attempt to resolve disagreements. Mediation by NOAA's Office for Coastal Management is available if the parties agree to mediation.[7]

For federal agency activities under Subpart C a federal agency can proceed over a state's objection if the federal agency notifies the state that it is consistent to the maximum extent practicable because (1) application of other federal law prohibits full consistency, or (2) the federal agency determines it is fully consistent with the state's enforceable policies.[8]

If a federal agency determines its proposed activity will not have reasonably foreseeable coastal effects, the federal agency may need to provide states with a "negative determination."[9] States can disagree with a federal agency's finding of no coastal effects, but if the federal agency does not agree with the state it can proceed with its activity.

Federal License or Permit Activities and the Effects Test — For federal agency activities under Subpart C, described above, the initial determination of coastal effects is made by the federal agency. For federal license or permit activities under Subpart D, the initial determination of coastal effects is made by NOAA when NOAA approves a state's list of federal license or permit

[6] 15 C.F.R. § 930.32(a)(1).

[7] There is also more formal mediation by the Secretary of Commerce and while there have been state requests for Secretarial mediation, federal agencies have never agreed to mediation by the Secretary of Commerce under the CZMA.

[8] *See* 15 C.F.R. § 930.43(d) and (e).

[9] *See* 15 C.F.R. § 930.35.

activities subject to state CZMA review, when approving a state's unlisted activity request, when approving a state's request to include a "geographic location description" in its coastal management program (*see* description of geographic location descriptions below), and when evaluating an appeal by an applicant to the Secretary of Commerce for a state's CZMA objection under Subparts D, E, or F.

States are required to have in their coastal management programs "lists" of federal license or permit activities subject to state CZMA review. [10] If an activity is listed and would occur within the state's coastal zone, coastal effects are assumed and the applicant must submit a consistency certification and necessary data and information to the state for review. If the federal license or permit is not listed and a state wants to review the activity, the state must seek NOAA approval to review the "unlisted activity" on a case-by-case basis.[11]

To review listed federal license or permit activities outside the coastal zone, a state must describe in its coastal management program a geographic location of such activities (Geographic Location Descriptions or GLDs).[12] A GLD must be based on a showing of reasonably foreseeable coastal effects from the listed federal license or permit activity that would occur within the proposed GLD. If NOAA approves a GLD then listed federal license or permit activities that would occur within the GLD would be automatically subject to state CZMA review.[13]

Proposed GLDs must be geographically specific, apply to specific listed federal license or permit activities, and based on an analysis showing that effects on the state's coastal uses or resources are reasonably foreseeable. NOAA has stated that the state's effects analysis does not have to show proof of coastal effects, but must show a reasonable causal connection; the effects analysis cannot be based on speculation or conclusory statements. A GLD does not need to delineate the boundary of where effects are reasonably foreseeable and where they are not; it only needs to show that within the area proposed for a GLD coastal effects are reasonably foreseeable.

If a GLD is not included in a state's coastal management program for a specific listed federal license or permit activity, a state may request NOAA approval to review a listed activity outside the coastal zone on a case-by-case basis as an unlisted activity under § 930.54.

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[10] 15 C.F.R. § 930.53.

[11] 15 C.F.R. §§ 930.53 and 930.54.

[12] 15 C.F.R. § 930.53.

[13] Federal lands, or lands held in trust by a federal agency, within a state's coastal zone boundary are automatically GLDs. 15 C.F.R. § 930.53(a)(1). States generally do not describe GLDs for federal agency activities under Subpart C outside of the coastal zone as federal agencies must provide a state with a consistency determination if there are reasonably foreseeable coastal effects regardless of the location of the federal agency activity or whether a state has a GLD.

CZMA REGIONAL PLANNING BODY OPTIONS

1. ENHANCING FEDERAL NOTICE TO STATES and TRIBES

Notice of proposed federal actions for Coastal Zone Management Act purposes is provided to states in various ways. If states have listed specific federal actions under the subparts of NOAA's CZMA federal consistency regulations, federal agencies or applicants for federal authorizations or funding must provide direct notice to the states. These notice requirements are the minimum statutory and regulatory mandated notice procedures. States can also review *Federal Register* notices, federal agency websites and public notices issued by federal agencies; however, states do not have the resources to regularly peruse these forms of notice to determine what a state might be interested in.

While the initial focus for enhanced CZMA federal consistency notification is on states and federal agencies, a regional ocean plan can be a platform to include tribal contacts so that affected tribes are also aware of proposed federal actions. A regional ocean plan could be used to improve coordination and communication between federal agencies, states and tribes and enhance effective decision making for CZMA review purposes state-by-state and regionally. A regional ocean plan could provide for additional means of direct notification to states and tribes. Early notice of a proposed federal action would not necessarily trigger a statutory or regulatory review period or public notice or comment periods for federal agencies, states or tribes; instead it would alert states and tribes to activities in which they may have interest.

Early and informal notice of proposed federal actions might be limited depending on each federal agency's ability to provide public notice of a proposed activity. Likewise, for non-federal applications for federal agency authorization, a federal agency may not be able to provide notice until an application is complete, depending on the regulatory provisions for each type of federal authorization.

Generally, the earlier a federal agency can provide notice of a proposed federal action the more effective states and tribes will be when formal review is initiated because they will have had more time to identify and mobilize the necessary resources for an efficient and effective process. For federal agency activities under Subpart C of NOAA's CZMA regulations, federal agencies provide notice to states through a "consistency determination" or "negative determination" at least 90 days before final federal agency action. Sometimes states prefer to be notified earlier. States may learn of a proposed federal agency activity through several vehicles: a *Federal Register* notice; a National Environmental Policy Act (NEPA) environmental impact statement (EIS); or other federal agency notice. A regional plan could establish a more formal or regular means of direct notice to states of upcoming proposed actions.

Likewise, for federal license or permit activities, OCS plans or federal funding, there are times when states are notified late in the process of applications for federal authorization or funding, even when the activity is listed in the state's coastal management program. A specific issue

identified for federal license or permit activities and federal assistance to state agencies under Subparts D and F of NOAA's regulations is notice to states of "unlisted activities."[14]

In order for states to review an unlisted activity under Subparts D and F, a state must file a request with NOAA for approval to review the activity within 30 days of receiving notice of the application (and the state's request must also be received by the applicant and federal agency within the 30 days).[15] The 30-day time period for a state to request NOAA approval starts when the state receives notice of the application, not when the application is filed with the federal agency.[16]

Notice can be actual notice (direct notification to the state coastal management program) or constructive notice (the state coastal management program should have known about the application via a Federal Register notice or other form of notice). Sometimes, it is not clear whether a notice suffices for actual or constructive notice or on what date the state received the notice starting the 30-day time period.

Enhancing direct notice to states of applications to federal agencies for federal authorizations and funding through a regional ocean plan would help remove some of the uncertainty of what constitutes notice and the date received. Moreover, states, federal agencies and NOAA's Office for Coastal Management could agree, as part of the regional ocean plan or in subsequent discussions, what types of applications federal agencies would provide notice for and when the 30-day time period would begin.

Options for Enhanced Notification

Data Portal. The RPB Data Portal is a possible mechanism for direct notification to states and tribes. The Data Portal could include a location where notices of proposed federal actions could be placed. The Data Portal could then be set up so that an automatic email is sent to state and tribal contacts when a notice is placed on the Data Portal.[17]

List Serve. To provide more consistent notice to states and tribes, a regional ocean plan could create a state CZMA federal consistency contact list serve, and a tribal contact list serve, for each region. Federal agencies would use the list serve to directly notify the state coastal

[14] *See* discussion above under the Federal Consistency Effects Test for listed and unlisted activities.

[15] *See* 15 C.F.R. § 930.54 for the unlisted activity requirements.

[16] It is important to note that even if a state receives early notification of a proposed federal license or permit or funding activity under Subparts D or F, the 30-day response period for states cannot begin until there is an actual application filed with the licensing or funding federal agency; federal consistency review only applies to active applications. *See* 15 C.F.R. § 930.51(f).

[17] Informal discussion with Data Portal expert Daniel Martin on September 10, 2015.

management program manager and federal consistency contact and tribal contact when a federal action is proposed, even if the CZMA federal consistency review process might start at a later date.[18] There may be other electronic means to accomplish this depending on a federal agency's capacity for electronic notification.

Operational Considerations

In addition to the technical component of establishing a direct notification process through the Data Portal, a list serve, or other means, there are two primary operational issues an RPB should consider:

1. The proposed federal actions that would be included on an early notification list. Would this include a specific list of federal actions by each federal agency or be done on an ad hoc basis depending on a federal agency's ability to provide early notification? Note that currently there is no mechanism, ad hoc or otherwise, for early notification other than the notice required by NOAA's CZMA regulations. In addition, there may need to be discussion of the form of the notification – what would be included?
2. Maintenance of the early notification process. Who would be responsible to ensure the early notification is used, contacts kept up to date, making sure the Data Portal is operating correctly, etc.?

[18] NOAA's Office for Coastal Management maintains a table of state CZMA program managers and federal consistency contacts on its website. http://www.coast.noaa.gov/czm/consistency/media/StateFCcontacts-Jan2015.pdf

2. CZMA COASTAL EFFECTS DETERMINATIONS

Under the Coastal Zone Management Act and NOAA's regulations there are times when states, federal agencies and applicants for federal authorizations need to evaluate coastal effects. These occur when:

- A state is reviewing a federal agency's consistency determination or negative determination under 15 C.F.R. Part 930, Subpart C;
- A state is reviewing a consistency certification under Subparts D, E and F;
- A state is adding an activity to its "list" of federal actions subject to federal consistency review and must obtain NOAA's approval based on whether a new activity will have reasonably foreseeable coastal effects;
- A state requests NOAA approval to review an unlisted activity on a case-by-case basis based on whether the state has shown that the unlisted activity will have reasonably foreseeable coastal effects;
- A state requests NOAA approval for a geographic location description (GLD) to review on a routine basis, specific listed federal authorization activities under Subparts D and E in federal waters, where the size and scope of the GLD is based on whether the state can demonstrate reasonably foreseeable coastal effects of the listed activities within the GLD;
- A federal agency is making its coastal effects determination in order to provide a state with a consistency determination or negative determination for a federal agency activity under Subpart C, whether the activity is within or outside the coastal zone; or
- An entity is preparing a consistency certification for a state under Subpart D, E or F.

NOAA has previously determined that a state's assertion that an activity in federal waters will have an "impact" on a coastal use or resource is insufficient to make a finding of reasonably foreseeable "coastal effects" under the CZMA. A state's effects analysis must provide more than general assertions of impacts or that resources or uses are important, or should be reviewed because of the proximity of an activity to state coastal uses or resources. A state must show there is a **causal connection** between the activity and effects on that state's coastal uses or resources. To make this **causal connection** a state needs to show that:

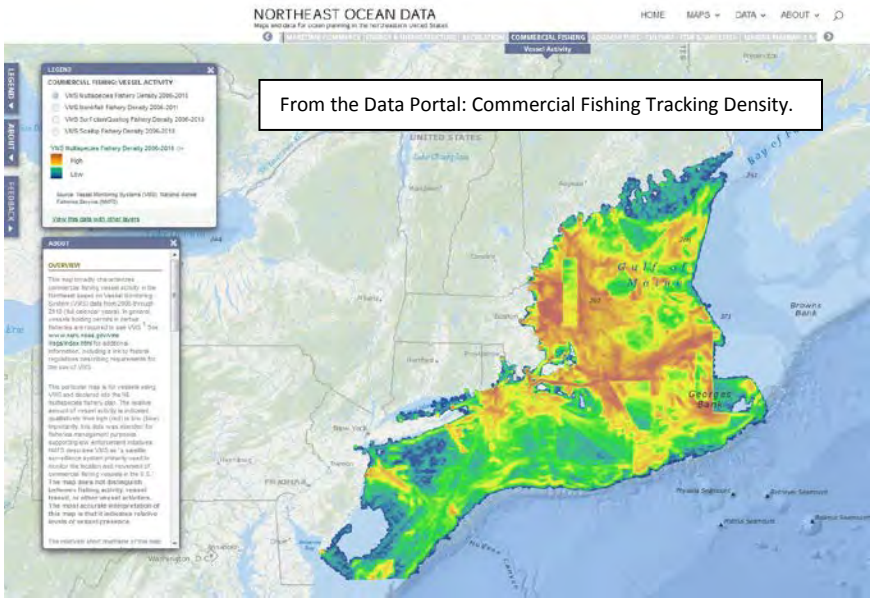
1. It has a **specific interest** in a coastal use or resource (e.g., commercial fishing or a coastal resource occurring in federal waters is in fact a resource of the state's coastal zone);
2. The specific interest actually **occurs in the area** proposed for an activity (e.g., a particular area where the state fleet fishes); and
3. Any impacts from the proposed activity **would have reasonably foreseeable effects** on the specific interest (not all impacts to a coastal use or resource result in a coastal effect).

Sometimes states can make this causal connection using existing and readily available information from state, federal, academic or other sources. In other instances, however, there

may not be information available to show a causal connection or there may be disagreement that available information demonstrates coastal effects.

The data and information in a regional ocean plan and its accompanying Data Portal could be used to support coastal effects evaluations by states, federal agencies, tribes and applicants for federal authorizations. The Data Portal can be a useful tool to locate a coastal use or resource. More importantly, the Data Portal can be used to show where state coastal uses or resources occur, e.g., commercial or recreational fishing effort for certain species at different time of the year. Nevertheless, states may need to generate additional information demonstrating the causal connection between the impact of a proposed activity and effects on state coastal resources and uses under the CZMA.

A regional ocean plan may include analysis of impacts to uses or resources if an RPB evaluates compatible uses. This information may help to make casual connections between resource impacts and coastal effects as viewed under the CZMA.



From the Data Portal: Commercial Fishing Tracking Density.

The regional ocean plan data and information may help determine what federal actions would be included in any CZMA agreements or to determine if there should be thresholds for when state CZMA review would occur.

Other information that may be developed as part of a regional ocean plan or RPB-initiated discussions may also inform coastal effects evaluations by states, federal agencies, tribes, applicants and others. For example, NOAA is proposing that it explore the importance of recreational fishing as part of regional ocean plans. If these activities are done, the outcomes from any one of these efforts could be useful when determining coastal effects from various activities or proposing GLDs for state CZMA purposes. Some proposed activities include the following.

- Improve understanding of and preparation for climate change impacts on fishing, e.g., *could include predictions about the movement of fish stocks and discussions of management implications of shifting populations*.

- Work with applicable Fishery Management Councils to identify and monitor *fishing impacts on the environment and the impacts of other human activities on fishing*.

- Improve *understanding of recreational fishing effort and impacts* in the region by convening at least two workshops by the end of 2017 for leaders of recreational fishing groups.

Regional Geographic Location Description.[19] In discussions with both the Northeast RPB and Mid-Atlantic RPB, one issue raised was whether an RPB could agree to establish a regional GLD for CZMA federal consistency review purposes. It may be possible for states and federal agencies to agree through a regional ocean plan that there should be a regional GLD where specified listed federal license or permit activities would be subject to state CZMA federal consistency review. The establishment of a GLD would still need to be supported by a coastal effects analysis, which could be strengthened by a justification of why the GLD is important from a regional perspective. Any regional GLD would also need to establish the north-south extent of each state's review area within the GLD.

Each state would still need to adopt the GLD as part of its individual coastal management program through the CZMA program change process.

[19] *See* previous discussion of the federal consistency provision and effects test for description of GLDs and how GLDs are used.

3. CZMA FEDERAL CONSISTENCY AGREEMENTS

The Coastal Zone Management Act regulations contain provisions that may be used to facilitate and streamline federal consistency reviews and these provisions could be used to support regional ocean plans. The CZMA regulations that may enhance the efficiencies in a regional ocean plan include: (1) developing thresholds of effects triggering state CZMA reviews; (2) developing a "general consistency determination" to cover multiple occurrences of a federal action; and (3) exclusion of specific federal actions from CZMA consistency reviews (e.g., where beneficial coastal effects or de minimis coastal effects are determined through ocean planning and supported by information in the Data Portal). These state and federal agency agreements could be time-limited, be revisited at established intervals, or allow a state to conduct an individual review.

The proposal to exclude certain federal actions from future consistency review or to establish thresholds where federal actions would or would not be reviewed for consistency is addressed in various sections of NOAA's regulations depending on the type of federal action. For federal agency activities (15 C.F.R. Part 930, Subpart C) this would be done through a general consistency determination (15 C.F.R. § 930.36(c)) or agreements between states and federal agencies for activities with de minimis or beneficial coastal effects (15 C.F.R. § 930.33(a)(3) and (4)). For federal license or permit activities (Subpart D) or federal financial assistance activities (Subpart F) this would be done through a general consistency concurrence (15 C.F.R. § 930.53(b)).

An RPB could develop and include these CZMA state-federal agreements, federal agency consistency determinations and state concurrences in a regional ocean plan or identify the CZMA agreements objective in the plan and then develop the CZMA documents, determinations and concurrences separately state-by-state.

One state suggested looking to see if some form of the U.S. Army Corps of Engineers (USACE) model, called a Programmatic General Permit, could be adopted by the RPB. The USACE uses a three-tier review system whereby the states issue USACE permits for listed activities in Tier 1; states meet with the USACE for Tier 2 activities and issue USACE permit after states have worked out any issues if any; and, for activities in Tier 3 the USACE handles those as Individual permits.

NOAA, after discussions with the federal agencies, identified three federal agencies' activities to illustrate this option. The activities proposed were provided to NOAA by the federal agencies for discussion purposes. RPBs may agree to some, all, none or a modification of these activities; these activities are presented for illustration and discussion purposes to determine whether or how this option might work. The agencies are the Federal Emergency Management Agency (FEMA), the U.S. Coast Guard (USCG) and the U.S. Navy.

While these discussions and agreements may be developed through the RPB and the regional ocean plan, each state will need to determine if it can concur with the proposals. The material in this discussion paper could form an outline for general consistency determinations for 15 C.F.R. Part 930, Subpart C or general consistency concurrences for Subpart D, E and F. The Data Portal and state enforceable policies would then provide the details for effects, thresholds, etc. Regional Planning Bodies may agree to some, all, none or a modification of these activities.

EXAMPLE 1 — FEDERAL EMERGENCY MANAGEMENT AGENCY

States and the Federal Emergency Management Agency could propose to exclude the following FEMA disaster relief (response and recovery) efforts from state CZMA federal consistency review. These FEMA activities are relief efforts that would be generally concurred with prior to a disaster and that would not require additional state review when the relief is provided. Under the effects thresholds section, specified relief efforts could require CZMA review, but states could expedite its review at the time relief is provided. In addition, the effects thresholds section describes whether and how longer term relief actions could be reviewed under the CZMA.

The following types of federal agency activities and federal licenses or permit activities are proposed to be *excluded* from federal consistency review as having either no reasonably foreseeable coastal effect, insignificant or de minimis effects, environmentally beneficial effects, or are activities that may have reasonably foreseeable coastal effects that a state agrees do not warrant further federal consistency review.

FEMA Public Assistance Categories Exempted from Future CZMA Review:

FEMA-Funded Emergency Work – Immediate Response:
A. Debris Removal - Includes clearance of trees and woody debris; building components or contents; sand, mud, silt, and gravel; wreckage produced during conduct of emergency protective measures (e.g., drywall); and other disaster-related wreckage.

B. Emergency Protective Measures – Includes those activities undertaken by a community before, during, and following a disaster that are necessary to do one of the following:

1. Eliminate or reduce an immediate threat to life, public health, or safety; or
2. Eliminate or reduce an immediate threat of significant damage to improved public or private property through cost-effective measures.

Generally, prudent actions to warn residents, reduce disaster damage, ensure continuation of public services, and protect lives and public health or safety are eligible for assistance. Examples include but are not limited to warning of risks and hazards, search and rescue, emergency medical facilities, some facility costs, security, provision of food and water essentials, temporary generators, temporary schools, demolition and removal of damaged public and private buildings and structures that pose an immediate threat to the safety of the public, removal of health and safety hazards, and construction of levees, berms, dikes and other protective measures to protect lives or improved property, and placement of sand on a beach to serve as protection of improved property from waves and flooding.

FEMA-Funded Permanent Work – Longer Term Recovery: Permanent work is that which is required to restore a damaged facility, through repair or restoration, to its pre-disaster design, function, and capacity in accordance with applicable codes or standards. [THIS MAY NEED SOME CAVEATS REGARDING EXISTING STRUCTURES, PRE-CONSULTATION WITH STATE FOR OPPORTUNITY FOR STATE TO SAY OK OR REQUIRE INDIVIDUAL CZMA REVIEW]

C. Roads and Bridges – This category includes but is not limited to roads, bridges, and associated facilities (e.g., auxiliary structures, lighting, and signage). For roads, activities include surfaces, bases, shoulders, ditches, drainage structures, and low water crossings. Bridge activities include decking and pavement, piers, girders, abutments, slope protection, and approaches.

D. Water Control Facilities – These activities include but are not limited to dams and reservoirs, levees, lined and unlined engineered drainage channels, canals, aqueducts, sediment basins, shore protective devices, irrigation facilities, and pumping facilities.

E. Buildings and Equipment – Activities include but are not limited to buildings, structural components, interior systems such as electrical or mechanical work, equipment, and contents including furnishings. Removal of mud, silt, or other accumulated debris is eligible as permanent work if the debris does not pose an immediate threat but its removal, along with any cleaning and painting, is necessary to restore the building. If the work meets the immediate threat criteria, removal of disaster-related debris and treatment of spreading mold (in the immediate aftermath of the disaster) may be eligible as emergency work.

F. Utilities – These include but are not limited to water treatment plants and delivery systems, power generation and distribution facilities (including natural gas systems, wind turbines, generators, substations, and power lines), sewage collection systems and treatment plants, and communications.

G. Parks, Recreational Facilities, and Other Items – Includes but is not limited to mass transit facilities such as railways; playground equipment; swimming pools; bath houses; tennis courts; boat docks; piers; picnic tables; golf courses; fish hatcheries; and facilities that do not fit Categories C-F. Emergency placement of sand on a natural or engineered beach may be eligible when necessary to protect improved property from an immediate threat. Protection may be to a 5-year storm profile or to its pre-storm profile, whichever is less costly.

FEMA Hazard Mitigation Assistance Programs Exempted from Future CZMA Review:[THESE MAY NEED SOME CAVEATS REGARDING EXISTING STRUCTURES, PRE-CONSULTATION WITH STATE FOR OPPORTUNITY FOR STATE TO SAY OK OR REQUIRE INDIVIDUAL CZMA REVIEW]

This includes FEMA-funded work to reduce or eliminate long-term risk to people and property from natural hazards and their effects, particularly:

> The Hazard Mitigation Grant Program (HMGP), the Pre-Disaster Mitigation (PDM), and the Flood Mitigation Assistance (FMA) Programs provide grants to states, territories, tribes, and local governments to implement long-term hazard mitigation measures prior to or after a disaster declaration or to assist in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the National Flood Insurance Program (NFIP). Activities may include property acquisition, structure demolition, mitigation reconstruction, retrofits, relocations, elevations, flood risk reduction projects, soil stabilization, and wildfire mitigation.

Thresholds or Triggers for State Review: If the following effects thresholds are reached or events occur, then the proposed activity will be subject to individual state CZMA review.

- To Be Determined after further discussion with states and federal agencies.

Notification: Even if these activities are exempted from future state CZMA federal consistency review, in accordance with this agreement, states may still want to know that an activity will occur and the federal agency could notify the state coastal management agency that it intends to undertake the proposed activity.

Coastal Effects: These activities are expected to have either no reasonably foreseeable effects to the uses or resources of a state's coastal zone or would have only de minimis, minor coastal effects. [ADDITIONAL LANGUAGE SHOULD BE INSERTED HERE BY FEDERAL AGENCIES, STATES AND TRIBES ON WHAT THE COASTAL EFFECTS MIGHT BE]

Consistency with State Enforceable Policies: In all expected instances when the described activities may occur, the activities should be fully consistent with all applicable enforceable policies of state coastal management programs. Even for those activities that are federal agency activities under Subpart C of NOAA's regulations, these activities are expected to be not only "consistent to the maximum extent practicable,"[20] but fully consistent with state enforceable policies. State enforceable policies that apply to the described activities are:

[STATES SHOULD INCLUDE HERE THE ENFORCEABLE POLICIES MOST APPLICABLE TO THE DESCRIBED ACTIVITY]

[20] *See* 15 C.F.R. § 930.32 (consistent to the maximum extent practicable).

EXAMPLE 2 — UNITED STATES COAST GUARD

The following types of federal agency activities and federal licenses or permit activities are proposed to be *excluded* from federal consistency review as having either no reasonably foreseeable coastal effect, insignificant or de minimis effects, environmentally beneficial effects, or are activities that may have reasonably foreseeable coastal effects that a state agrees do not warrant further federal consistency review.

USCG Categories Exempted from Future CZMA Review:

Excluded federal agency activities:

1. Regulated navigation areas pursuant to 33 C.F.R. § 110, excluding changes to vessel traffic services pursuant to 33 U.S.C. § 1223 (may need to distinguish between permanent, long term and temporary regulated navigation areas);
2. Drawbridge operation regulations pursuant to 33 C.F.R. §117;
3. Establishment and maintenance of public (federal) aids to navigation;
4. Temporary speed zones or navigation modifications due to marine mammals; and
5. Temporary federal mooring or anchorage areas, excluding permanent anchorage areas pursuant to 33 U.S.C. § 471.

Excluded federal licenses and permits:

6. Regattas and marine parades pursuant to 33 C.F.R. § 100 (may need to qualify for Marine Events of National Significance);
7. Establishment of private aids to navigation; and
8. Scientific sampling (benthic, pelagic, and water column)

Thresholds or Triggers for State Review: If the following effects thresholds are reached or events occur, then the proposed activity will be subject to individual state CZMA review.

- To Be Determined after further discussion with states and federal agencies.

Notification: Even if these activities are exempted from future state CZMA federal consistency review, in accordance with this agreement, states may still want to know that an activity will occur and the federal agency could notify the state coastal management agency that it intends to undertake the proposed activity.

Coastal Effects: These activities are expected to have either no reasonably foreseeable effects to the uses or resources of a state's coastal zone or would have only de minimis, minor coastal effects. [ADDITIONAL LANGUAGE SHOULD BE INSERTED HERE BY FEDERAL AGENCIES, STATES AND TRIBES ON WHAT THE COASTAL EFFECTS MIGHT BE]

Consistency with State Enforceable Policies: In all expected instances when the described activities may occur, the activities should be fully consistent with all applicable enforceable policies of state coastal management programs. Even for those activities that are federal

agency activities under Subpart C of NOAA's regulations, these activities are expected to be not only "consistent to the maximum extent practicable,"[21] but fully consistent with state enforceable policies. State enforceable policies that apply to the described activities are:

[STATES SHOULD INCLUDE HERE THE ENFORCEABLE POLICIES MOST APPLICABLE TO THE DESCRIBED ACTIVITY]

[21] *See* 15 C.F.R. § 930.32 (consistent to the maximum extent practicable).

EXAMPLE 3 — U.S. NAVY

The following types of federal agency activities and federal licenses or permit activities are proposed to be *excluded* from federal consistency review as having either no reasonably foreseeable coastal effect, insignificant or de minimis effects, environmentally beneficial effects, or are activities that may have reasonably foreseeable coastal effects that a state agrees do not warrant further federal consistency review.

Navy Categories Exempted from Future CZMA Review:

1. Surface and submerged military training exercises.
2. Surface, submerged, and aerial testing activities.

Thresholds or Triggers for State Review: If the following effects thresholds are reached or events occur, then the proposed activity will be subject to individual state CZMA review.

- To Be Determined after further discussion with states and federal agencies.

Notification: Even if these activities are exempted from future state CZMA federal consistency review, in accordance with this agreement, states may still want to know that an activity will occur and the federal agency could notify the state coastal management agency that it intends to undertake the proposed activity.

Coastal Effects: These activities are expected to have either no reasonably foreseeable effects to the uses or resources of a state's coastal zone or would have only de minimis, minor coastal effects. [ADDITIONAL LANGUAGE SHOULD BE INSERTED HERE BY FEDERAL AGENCIES, STATES AND TRIBES ON WHAT THE COASTAL EFFECTS MIGHT BE]

[NAVY TO PROVIDE INFO ON: training and testing activities and the required mitigations and thresholds documented in Navy EIS and permit documents.]

> **NOAA Note on Marine Mammals**: The use of mid-frequency active sonar by the Navy for training exercises has been a controversial issue involving many states, interest groups, other federal agencies including several offices within NOAA, particularly NOAA's National Marine Fisheries Service (NMFS), Office of National Marine Sanctuaries (ONMS) and the Office for Coastal Management. To the extent there are agreements reached by an RPB or states related to Navy training and testing exercises and sonar, such agreements would not affect the consultations and coordination between Navy and the other federal agencies, including agencies within NOAA. Impacts to marine mammals would be mitigated as determined by NMFS under the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) and ONMS under the National Marine Sanctuaries Act.

NOAA notes that there is disagreement between some states and Navy on whether impacts to marine mammals from Navy training exercises, especially the use of sonar, result in an effect to a state's coastal uses or resource. For example, if the impact to a marine mammal, or "take," as authorized by NMFS is the mere occurrence of marine mammals in the vicinity of an activity or that the impact is expected to be temporary behavioral modifications, e.g., a marine mammal may alter course or avoid an area of the ocean for a short period of time, those would likely not be coastal effects for CZMA purposes. In addition, NMFS mitigation measures usually include observers on the vessels, course alterations to avoid any observed animals, or cessation of operations when observed animals are too close to the activity.

Consistency with State Enforceable Policies: In all expected instances when the described activities may occur, the activities should be fully consistent with all applicable enforceable policies of state coastal management programs. Even for those activities that are federal agency activities under Subpart C of NOAA's regulations, these activities are expected to be not only "consistent to the maximum extent practicable,"[22] but fully consistent with state enforceable policies. State enforceable policies that apply to the described activities are:

[STATES SHOULD INCLUDE HERE THE ENFORCEABLE POLICIES MOST APPLICABLE TO THE DESCRIBED ACTIVITY]

[22] *See* 15 C.F.R. § 930.32 (consistent to the maximum extent practicable).

Document 4.3
Northeast Ocean Council guidance for marine plans

Guidance for Marine Plans

(Primary Reference: National Ocean Council, Marine Planning Handbook, July 2013)

I. Purpose of Marine Plans: Marine plans produced by a regional planning body (RPB) can provide information about specific issues, resources, and areas of interest to better inform existing management authorities and measures. They can also describe future desired conditions and provide information and guidance that support important Federal, State, tribal, and non-governmental actions moving forward in a particular region. (Handbook, page 12)

II. Authority: Executive Order 13547 (EO), "Stewardship of the Ocean, Our Coasts, and the Great Lakes," of July 19, 2010, and the Final Recommendations of the Interagency Ocean Policy Task Force (FR) it references, provide basic guidance about the purpose of marine plans. The Implementation Plan describes how the EO will be implemented. However, both the EO and the FR provide that the National Ocean Council (NOC) will provide additional guidance to support marine planning in the regions that choose to move forward through RPBs. This guidance is the Marine Planning Handbook (Handbook). That Handbook makes clear that it supplements the discussion of marine planning in the EO, FR, and Implementation Plan, and provides more specific information and guidance on RPBs, regional participation, and the development of marine plans. (Handbook, page 1)

III. Content of Marine Plans:

A. Examples of potential focus areas for marine planning include, but are not limited to:

- Developing information that facilitates more effective review and permitting among State, Federal, and tribal authorities for a specific class of activity, such as offshore energy infrastructure and maritime shipping;
- Characterizing environmental conditions and current and anticipated future uses of marine space to assist in review and permitting among relevant approval authorities for classes of activities;
- Developing and implementing a plan to acquire data and information to support more efficient management of activities of particular regional interest, such as remote sensing data to support coastal mapping and maritime domain awareness;
- Developing and implementing a plan to acquire data and information to support sustainability of coastal and marine ecosystems in the region;
- Identifying a specific geographic area and addressing management challenges that would benefit from multi-government resolution;
- Identifying and developing information that better informs agency or government-to-government consultations under the Endangered Species Act, Marine Mammal Protection Act, and the National Environmental Policy Act that apply to offshore development activities important to the region;
- Developing maps and information that inform effective co-location of multiple existing and new ocean uses, including, but not limited to commercial fishing, vessel traffic lanes, military training, sand and gravel mining, dredging and dumping, and new offshore infrastructure development; (Handbook, page 12)
- Developing more collaborative decision-making processes amongst all activities regionwide to ensure that all issues are addressed;

- Proposing agreement on a basic level of ecosystem protection at regional and local geographic scales; and
- Developing agreements for specific geographic areas.

B. Some elements of the process and content of marine planning are common to all regions. The marine planning framework described below provides a framework for regional work that can be tailored to the circumstances of individual regions. The framework allows all interested parties to clearly understand the issues involved, the process and material used to develop a regional plan and/or sub-regional plans, and how the marine plan will be used to address the issues the region has chosen to address. (FR, page 54; Handbook, page 13)

C. Consistent with the scope and scale of a region's work, a marine plan should include the following:

- Goals and objectives that the region wants to accomplish through its marine plan;
- A regional assessment that uses maps, their underlying data, and other information to describe the marine environment and human activities relevant to the subject matter of the plan;
- The Federal, State, and/or tribal regulatory context relevant to the subject matter of the plan;
- A description of the planning process, materials, analyses, and information and guidance that make up the plan;
- A description of where and how the marine plan intersects with Federal and State agencies' existing authorities and activities;
- A description of how the results of the marine plan will enhance coordination and promote consistency in Federal agencies' interpretation and application of existing laws and regulations, in consultation with the States, tribes, and fishery management councils;
- Ongoing monitoring and evaluation mechanisms that assess the effectiveness of the plan; and
- The dispute resolution process the NOC developed for Federal agencies to follow when a dispute arises between Federal agencies during implementation of an approved marine plan. (Handbook, page 13)

D. To develop a marine plan, regional planning bodies should address the following steps in a way that best suits their needs, interests, and capacity as further discussed in the EO, FR, and Handbook:

- Assess regional capacity for marine planning;
- Host introductory discussions with members, stakeholders, and the public;
- Agree on a shared regional vision;
- Identify regional goals and objectives;
- Pursue additional resources needed to conduct effective marine planning;
- Develop a work plan that outlines how the region will develop a marine plan;
- Analyze data, uses, services, concurrent uses, potential threats, and impacts;
- Develop and evaluate options for achieving the region's goals and objectives, and select an option to develop the plan;
- Provide a draft plan for public comment;

- Provide a final plan for NOC review and concurrence; and
- Implement, monitor, evaluate, and modify the plan over time, as available resources permit. (Handbook, page 13)

E. The marine plans are intended to be iterative, and each RPB has an ongoing responsibility to monitor and assess the effectiveness of its plan, and adapt it if necessary. (FR, page 58)

F. Most of these steps do not have to be sequential, although many will rely in part on actions that fall under other steps. For example, an RPB can begin to identify available data, sources of expertise, stakeholder issues of interest, and other information as part of introductory discussions with stakeholders and the public. In practice, there may be feedback loops among the planning steps. For example, evaluating options for achieving the region's goals and objectives may reveal the need for additional information, or for additional expert analysis of data and information. (Handbook, page 13)

IV. Process for Creating Marine Plans:

A. The two RPBs established before July 2013 are expected to complete their marine plans by the end of 2016. Those RPBs established after July 2013 are expected to complete their marine plans within 4 years of their establishment. (Handbook, page 15)

B. RPBs shall develop and provide a draft version of their marine plan for public review and comment, after the State agencies have received executive approval to release the plan for public review. The public review of the draft marine plan shall be for a minimum of 30 days and a maximum of 90 days. The type of public review will depend on the complexity of the draft marine plan. Consideration should be given to whatever means the member States and Federal agencies use for public comment on documents of similar complexity, including public notices and the Federal Register or applicable State registers, although inclusion in the Federal Register is not an absolute requirement. Public comments shall be recorded and responded to in an appropriate manner. (FR page 58; Handbook, page 16)

C. Once the public review process is completed, the RPB will develop its final marine plan, and send the final marine plan to the NOC Office for review and concurrence. (Handbook, page 17)

D. The NOC will review and concur, as outlined below, that the final marine plan is consistent with the substantive and procedural standards and framework described in the Executive Order, Final Recommendations, and Handbook. 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. As a reminder, marine plans are not regulatory, and concurrence does not create new authorities, regulations, or missions. All activities will continue to be managed under existing authorities. (Handbook, page 17)

1. The NOC Office will submit the final marine plan to the NOC Marine Planning Implementation Subgroup, which will review for consistency and make a recommendation to the NOC Steering Committee within 30 days of receipt. The review will consist of the following:

(a) Consistency with substantive standards in the Handbook (as summarized in subsection III.C. above).
(b) Consistency with procedural standards in the Handbook (as summarized in subsection III.D. above).
(c) Other criteria:
  (i) Consistency with other authorities and guidance documents (Executive Order, Final Recommendations, Handbook, and Implementation Plan);
  (ii) Consideration of the marine plan's compatibility with an adjacent region's plan regarding issues that cross regional boundaries; and
  (iii) Interplay with other relevant national priorities. (FR, page 63)

2. The NOC Steering Committee will concur or not concur with the NOC Marine Planning Implementation Subgroup's recommendation within 30 days of receipt.

3. The NOC Steering Committee will forward their recommendation to the NOC Deputies Committee, which will make the final concurrence determination within 30 days of receipt. The RPB and the Steering Committee will ensure that any disputes raised at the RPB are thoroughly described and briefed to the Deputies for their consideration and either decision or information.

4. The NOC Director will notify the NOC Principals Committee of the concurrence of the marine plan within 7 days.

5. Upon concurrence by the NOC, the marine plan will be co-signed by senior State officials (e.g. Governors), tribal representatives, as appropriate, and senior officials of the Federal agencies represented on the regional planning body. Upon signature by all the partners, the regional marine plan would be considered "in effect" and implementation would begin. (FR, page 64)

Document 4.4
Public comment letters

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September 30, 2015

Northeast Regional Planning Body
Ecosystem-Based Management Working Group

Submitted via email to the Northeast Regional Planning Body Executive Secretary

Dear Working Group Members:

On behalf of Conservation Law Foundation (CLF), I am writing to strongly support the Ecosystem-Based Management Working Group and the charge that has been put before it by the Northeast Regional Planning Body (RPB). We are grateful to the RPB for acting upon the comments of many stakeholders who called for the formation of this Working Group to inform and guide the ecosystem-based management (EBM) framework of the Northeast regional ocean plan and the associated identification of important ecological areas (IEAs).

Ecosystem-based management (EBM) is the first of nine priority objective of the National Ocean Policy[1] (as articulated in the Final Recommendations of the Interagency Ocean Policy Task Force) which calls for the adoption of "ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes".[2] The Final Recommendations, adopted by the National Ocean Policy, state that coastal and marine spatial planning "is intended to improve ecosystem health and services by planning human uses in concert with conservation of important ecological areas, such as areas of high productivity and biological diversity, areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding and feeding; areas of rare or functionally vulnerable marine resources and migratory corridors."[3] Further, the Final Recommendations specifically call for assistance from scientific and technical experts to analyze "the ecological condition and relative ecological importance or values of areas within the planning area, including identification of areas of particular ecological importance using regionally-developed evaluation and prioritization schemes."[4] We are pleased that the RPB recognizes the Northeast regional ocean plan should be built on a foundation of EBM and that it wisely created this expert Working Group to support and inform the development of the EBM framework as well as several key components of the regional ocean, most notably IEAs. Given the short time frame for completing the regional ocean plan, CLF believes that the Working Group should focus its efforts over the next 4-6 months on the following two tasks articulated in the charge:

[1] Executive Order 13547, *Stewardship of the Ocean, Our Coasts and the Great Lakes*. Fed. Reg. 43023. Thursday, July 22, 2010.
[2] White House Council on Environmental Quality, *Final Recommendations of the Interagency Ocean Policy Task Force* (July 19, 2010), p. 6, *available at* http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf .
[3] Ibid. p. 44.
[4] Ibid. p. 57.

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- Support the research, identification, evaluation and application of approaches and methods to define and characterize important ecological areas. CLF strongly recommends that the Working Group focus its efforts over the next several months on providing guidance on the development and application of a methodology for identifying IEAs with a goal of identifying IEAs for inclusion in the final NE regional ocean plan. We believe that the extensive efforts over the past several years to build and populate the ocean data portal and to conduct extensive data analyses to advance our understanding of New England's ocean ecosystem now enables the RPB, with support from the Working Group, to advance this critically important element of the regional ocean plan. We are aware of similar work by the Mid-Atlantic RPB and recommend that the Working Group collaborate with efforts in the neighboring region, as appropriate, without slowing the progress of the Northeast regional ocean plan.
- Review analyses and mapping overlays of human use and ecological data, including compatibility considerations. Compatibility of uses with the natural environment and compatibility among uses is a core goal of the ocean plan and is essential to its effective implementation. The Working Group should provide input and feedback into the design of a compatibility determination framework to be incorporated into the regional ocean plan.

In addition to the above priority tasks we also strong encourage the Working Group to inform and guide the presentation and descriptive framing of the EBM in the regional ocean plan. At the RPB meeting in June of 2015, several members of the RPB stressed the need to better articulate how the regional ocean plan will put into motion an EBM approach for regional ocean management. The Working Group should provide guidance and feedback on how to structure the regional ocean plan and clearly describe the EBM framework and associated elements.

To the extent that enough research has been completed to produce useful benthic and pelagic habitat maps, we encourage the Working Group to review and provide feedback on the development of these maps and corresponding data, along with guidance on incorporating this information into the IEA analysis. Otherwise, we recommend that this task be sequenced after the above three tasks are completed.

Likewise, we would support the Working Group providing guidance on science priorities and options for monitoring ocean health and evaluating the effectiveness of the ocean plan, including reviewing progress towards achieving ocean planning goals and implementing EBM. This too is an essential element of EBM. However, we think this work should come after the initial two tasks are complete.

Thank you all for devoting your time and considerable expertise to the RPB and the development of the nation's first ecosystem-based regional marine spatial.

Sincerely,

Priscilla M. Brooks

Priscilla M. Brooks
VP and Director of Ocean Conservation

The Nature Conservancy
Protecting nature. Preserving life.™

Worldwide Office
4245 North Fairfax Drive
Suite 100
Arlington, Virginia 22203-1606

MAIN TEL (703) 841-5300
MAIN FAX (703) 841-1283

nature.org

September 30, 1015

TO: Northeast Regional Planning Body
Ecosystem Based Management Work Group

Submitted via email to the RPB Secretariat

Dear Members of the Northeast Regional Planning Body Ecosystem Based Management Work Group:

The Nature Conservancy is writing to express our strong support for the Ecosystem Based Management Working Group (EBM WG) as it begins its work on behalf of the Northeast Regional Planning Body (RPB). The work group has at its disposal the resources it needs to take many important steps to advance ecosystem approaches to management in the Northeast. We stand ready to support your efforts to do so. As you begin your work this week, we encourage you to focus on short term deliverables that will become critical pieces of the Northeast regional ocean plan.

First and foremost, the Conservancy supports the work group's focus on developing a process and criteria that may be used by the RPB to identify Important Ecological Areas (IEAs). As pressures from new and existing ocean resource uses increase, we need a shared understanding about where the most diverse, vulnerable, and ecologically valuable places are located. The work over the past year by the Marine Life Data and Analysis Team (MDAT) represents a major step in developing a new level of understanding of marine resources. When combined with the growing body of knowledge relating to IEAs in the Northeast, the EBM workgroup has a robust foundation from which create and refine the process and criteria that may be used to identify IEAs. The Conservancy encourages the work group to use products from the MDAT team and others to develop such a process that then may be included in the regional ocean plan.

Second, the Conservancy strongly believes that developing a compatibility framework is essential for successful ocean planning. Consistent with term of reference #3, providing clear guidance on "compatibility considerations" will create a shared understanding among RPB member agencies to support consistent decision making.

By developing methods to identify IEAs and a compatibility framework, the working group and the RPB will provide useful context for the regional ocean plan, for government agencies implementing the plan and for stakeholders. Once the IEAs and a compatibility framework are implemented through the regional ocean plan, the work group and the RPB can turn their attention to longer term essential activities like ecosystem monitoring and identification of science/research priorities.

Thank you all for your dedication to advancing EBM. The health of our shared marine resources will benefit from your hard work.

Sincerely,

Sally McGee, Northeast Marine Program Director
smcgee@tnc.org
(860) 271 3922

New England Fishery Management Council
50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

October 7, 2015

Mr. Grover Fugate, RPB State Co-lead
Mr. Richard Getchell, Tribal Co-lead
Ms. Betsy Nicholson, RPB Federal Co-lead
NOAA/GARFO
55 Great Republic Drive
Gloucester, MA 01930

Dear Northeast Regional Planning Body Co-Leads:

This spring, the Northeast Regional Planning Body will achieve a major milestone: completion of its draft regional ocean plan. While I may be a bit premature, you are to be congratulated for this pending accomplishment. What makes this accomplishment even more noteworthy is the fact that this will likely be the first plan of its kind in the United States. It reflects well on the federal, state, and tribal partners in this region.

My understanding is that the draft plan will be made available for public comment, probably in April. Given the trendsetting nature of this plan, and the vast number of ocean users it will affect, I encourage you to provide a full 90-day comment period. This is the maximum period called for in the National Ocean Council guidelines. Further, I request that the 90-day period extend at least through May 15. The RPB asked to discuss the plan at our April 19-21 Council meeting. A comment period that ends mid-May will give the staff time to incorporate the Council discussion into our written comments. In addition, to facilitate the April discussion, you may want to consider a briefing on the plan at our January Council meeting.

Thank-you for considering these requests. I look forward to your reply and our continuing cooperation on ocean planning issues.

Sincerely,

Thomas A. Nies
Executive Director

cc: Katie Lund
John Weber
Nick Napoli

clf

conservation law foundation

October 13, 2015

Northeast Regional Planning Body
Ecosystem-Based Management Working Group

Submitted via email to the Northeast Regional Planning Body Executive Secretary

Dear Working Group Members:

It has come to my attention that there may have been a misunderstanding related to Conservation Law Foundation's recommendations to the Northeast Regional Planning Body's Ecosystem-Based Management Working Group, sent in our letter dated September 30, 2015. In that letter, Conservation Law Foundation (CLF) strongly encouraged the Working Group to focus its attention on "supporting the research, identification, evaluation and application of approaches and methods to define and characterize important ecological areas for inclusion in the Northeast Regional Ocean Plan." There was apparently a misunderstanding regarding our recommendations on the inclusion of benthic and pelagic habitat information into the identification of important ecological areas. In our letter, CLF recommended that:

> *To the extent that enough research has been completed to produce useful benthic and pelagic habitat maps, we encourage the Working Group to review and provide feedback on the development of these maps and corresponding data, along with guidance on incorporating this information into the IEA analysis. Otherwise, we recommend that this task be sequenced after the above three tasks are completed.*

To be clear, CLF fully supports and recommends incorporating benthic and pelagic habitat information in to the methodology for identifying important ecological area to the extent that this information is available and in a form that can be incorporated into the analysis. Our intent in the original letter was to signal that if this information was not available, that lack of information should not hinder the work of the RPB to identify important ecological areas with the best scientific information available. In subsequent conversations with scientists, it is apparent that such information is available and can be incorporated into the analysis. We strongly support the inclusions of these critical factors in the analysis and identification of important ecological areas.

Thank you all for devoting your time and considerable expertise to the RPB and the development of the nation's first ecosystem-based regional marine spatial plan.

Sincerely,

Priscilla M. Brooks

Priscilla M. Brooks
VP and Director of Ocean Conservation