MEETING SUMMARY

Habitat Committee and Advisory Panel
November 17, 2020
12:00-5:06 p.m.
Via Webinar

The Habitat Committee and Advisory Panel met jointly to discuss offshore renewable energy development, Council policies on non-fishing impacts to habitat, NMFS aquaculture planning, and 2021 priorities.

MEETING ATTENDANCE: Committee: Eric Reid (Chair), Peter Aarrestad, Terry Alexander, Lou Chiarella, Peter deFur, Libby Etrie, Peter Hughes, Scott Olszewski, Dan Salerno, Melissa Smith, and Council chair John Quinn; Advisory Panel: Chris McGuire (Chair), Gib Brogan, Beth Casoni, Rip Cunningham, Ben Haskell, Lane Johnston, Jeff Kaelin, Meghan Lapp, Elizabeth Marchetti, Drew Minkiewicz, Ron Smolowitz, Dave Wallace; Other Council members/designees: Megan Ware; Council staff: Michelle Bachman (Plan Development Team Chair), Jenny Couture, Rachel Feeney, Chris Kellogg, Janice Plante; NOAA GC: Mitch MacDonald; NOAA NEFSC: Geret DePiper; NOAA GARFO: Sharon Benjamin, Chris Schillaci, David Stevenson. Nineteen members of the public joined the webinar.

AGENDA ITEMS AND KEY OUTCOMES:

- Members received updates on various topics including offshore wind, the northeast regional habitat assessment, and offshore development projects in the planning stages.
- Dr. Geret DePiper reviewed NOAA’s economic analysis tool developed to support offshore wind and fisheries analysis and took questions/comments about the project.
- The Committee and Advisors reviewed the draft aquaculture and submarine cable policies in some detail, suggested revisions, and both groups recommended forwarding both policies on to the Council for approval at the December 2020 meeting.
- The group discussed Aquaculture Opportunity Areas generally and two specific aquaculture projects located off NY and NH. The Committee and Advisors recommended that the Council draft comments on both the Manna Fish Farm project off Long Island (feedback is desired by 12/8), and in response to NOAA’s Request for Information notice on AOAs (due 12/22).
- Ms. Bachman briefly reviewed 2021 priorities and a plan for completion of the work assigned.
**AGENDA ITEM #1: UPDATES**

Ms. Bachman noted the recent Responsible Offshore Development Alliance Synthesis of the Science workshop and forthcoming report, which various council staff are involved with. She commented that this report should prove useful if we consider updates to our offshore energy policy (during 2021 or later). NROC/MARCO/RODA are close to releasing their report on fisheries data updates recommended for the data portals. Ms. Bachman is tracking other planned data updates as well and is coordinating with the data portal team on disseminating eventual products from the Northeast Regional Habitat Assessment. The Council will submit comments on the Responsible Offshore Science Alliance’s draft monitoring guidelines; the next ROSA meeting is on November 23. Mr. Kaelin noted the ongoing DE/NJ Port Access Route Study; he recently submitted comments. There was some discussion of spatial overlap between wind energy development activities and horseshoe crab areas offshore of Delaware Bay; specifically a proposed anchorage area is located adjacent to important sturgeon habitat.

Dr. DePiper shared an economic reports tool used by GARFO and NEFSC to support offshore wind data requests. The reports are publicly available [here](#), and the data tables can be filtered and downloaded to Excel or CSV files for further analysis. Members were interested in the tool and Dr. DePiper indicated that the idea is to be able to use it to explore other areas in other contexts, for example potential aquaculture sites. He explained that in the future, they are looking to incorporate recreational fishing data and explore behavioral models to predict patterns in fishing effort.

Ms. Bachman explained that work on the Northeast Regional Habitat Assessment or NHRA is ongoing, and that they are working on their data inventory and metadata, individual species and guild-based habitat suitability modeling, and status and trends of inshore habitat types, such as seagrasses and oysters. The technical teams are meeting in December.

Ms. Bachman also identified three non-fishing projects in the planning stages, specifically Google’s Grace Hopper trans-Atlantic fiber optic cable, the Manna Fish Farm off Long Island, and the Bluewater Fisheries project off New Hampshire. Both aquaculture projects are in the pre-application phase, located in federal waters, and planning to culture steelhead. The Council has been invited to comment on the siting of the Manna project in the near-term; the developer is seeking initial feedback before December 8. A pre-application interagency call for Blue Water Fisheries’ project is planned for December 10. Members generally felt it would be helpful for the New England Council to comment on the projects, especially if there is fishing activity under NEFMC FMPs nearby, or if vessels landing in New England ports fish in or near the project site. This would include commenting on the Manna Fish Farm, which is in the Mid-Atlantic region, since it does not appear that MAFMC plans to weigh in at this time. A more general discussion on aquaculture planning (i.e. the NOAA Fisheries Aquaculture Opportunity Areas process) is planned for the Council meeting next month. It would make sense to discuss how the Council wishes to approach giving feedback on specific projects during that agenda item.

Related to aquaculture governance, the group was interested in continuing to receive updates related to the Fifth Circuit Court of Appeals ruling on the Gulf Council’s aquaculture FMP, and
the implications for Council and NOAA roles in the aquaculture permitting process in that region and other regions, including New England.

There was some discussion of how other Councils handle aquaculture, i.e. via which committees or advisory panels, and it was noted that the Pacific FMC is considering convening a panel specific to offshore development issues, including offshore wind and aquaculture. Ms. Bachman noted that at this point, the plan for NEFMC is to continue discussing aquaculture via the Habitat Committee/AP; she said she would follow up with staff at other councils to see how they handle the issue. Note that as a result of past work through a dedicated NEFMC aquaculture committee, there are some aquaculture measures in our FMPs. These include the ability to implement via framework adjustment “aquaculture enhancement measures and closures” in the scallop regulations, and language related to facilitating aquaculture in the Atlantic salmon, groundfish, and herring regulations.

**AGENDA ITEM #2: DEVELOPMENT OF COUNCIL POLICIES ON NON-FISHING IMPACTS TO HABITAT**

Ms. Bachman summarized the process used to develop the cable and aquaculture policies:

- Issue identification (Committee, August 2019)
- Initial scoping (PDT, select AP/Committee, November 2019)
- Council approves work priority (December 2019)
- Further scope issue, develop backgrounders (PDT, Committee/AP meetings in January, April, May 2020)
- Review backgrounders (Committee/AP, August 2020)
- Draft policies (PDT, select AP/Committee, October 2020)

Since the Committee and Advisors reviewed the backgrounders on both aquaculture and submarine cables on August 20, updated versions of those documents were provided as background but not reviewed during this meeting. Ms. Bachman then walked the group through both documents in some detail, beginning with the aquaculture policy, explaining some of the rationale and discussion related to various sections. Each policy explains the scope of the activity to which the policy pertains (e.g. electrical and fiber optic cables in or on the seabed), the audience (e.g. federal and state agencies, developers, etc.) and includes a series of recommended principles and best practices.

First, the group discussed the aquaculture policy, recommended a series of revisions, and then forwarded that policy to the Council for the approval. Next, the group discussed the cable policy, recommended some revisions, and then forwarded the policy to the Council for approval. After Council approval of the policies, follow up work will include communicating with habitat and aquaculture staff at NOAA Fisheries regarding exactly how the Council wishes to engage in discussions about specific projects.

**Aquaculture policy discussion**

The Committee and Advisors suggested revisions to some sections of the policy:
• Emphasize importance of considering cumulative effects,
• Include language about removal of structures if the operation ceases,
• Reference the importance of enforcement of any permit conditions,
• Emphasize importance of culturing only native or naturalized species, unless safeguards are met,
• Recommend an emergency response plan, for example in case of escapement,
• Removed language about fair shares of incomes,
• Add language about considering environmental justice as part of NEPA analysis,
• Clarify that siting should avoid fishing areas where adverse impacts might be expected to fishing (could include commercial or recreational).

There was discussion about how the states use advisory panels and other local input to guide decisions on aquaculture, and some general agreement that input from those who work on the water is important. There were questions about exactly what the Council’s role in the process is, and about the roles of other agencies and entities (ACOE and EPA are going to be the lead agencies in offshore projects; see background document for more information on roles). Mr. Chiarella observed that the Council’s input on projects is likely to be influential, and that between the Council and NOAA Fisheries we should be able to effectively set the stage for how offshore development goes forward. There will be opportunities for input during both the pre-application phase and during the formal comment process. Revisiting an earlier discussion, Mr. MacDonald noted that he would continue to provide updates on NOAA Fisheries’ role in aquaculture permitting and oversight, given the ruling on the Gulf Council’s FMP.

Motion 1 (Cunningham/Kaelin): The AP recommends that the Committee recommend that the Council consider adopting the aquaculture policy document as revised on November 17.

Motion 1 was adopted by unanimous consent.

Motion 2 (Alexander/deFur): The Committee recommends that the Council consider adopting the aquaculture policy document as revised on November 17.

Motion 2 was adopted by unanimous consent.

Cable policy discussion

Ms. Bachman reviewed the cable policy. In response to a question she noted that operational noise doesn’t appear to be a major issue, so it was left out of the section on operational impacts. (Installation noise and time of year restrictions are a separate concern.) She also noted that the policy does not cover any issues that might be associated with cables in the water column, such as those associated with floating wind. The Committee and Advisors suggested the following revisions to the policy:

• As with the aquaculture policy, emphasize consideration of cumulative effects,
• Add something about co-location of cables in the same corridor to minimize the footprint,
• Add something about avoiding running cables through areas where mobile bottom-tending gears are heavily used,
• Add a recommendation to the communication section about repairing cables as quickly as possible.

The group discussed recommending specific burial depths, but decided it was better to leave that section general, and reference burial to sufficient depth as indicated by a cable burial risk assessment.

Motion 3 (Cunningham/Kaelin): The AP recommends that the Committee recommend that the Council consider adopting the submarine cable policy document as revised on November 17.

Motion 3 was adopted by unanimous consent.

Motion 4 (Alexander/Etrie): The Committee recommends that the Council consider adopting the submarine cables policy document as revised on November 17.

Motion 4 was adopted by unanimous consent.

AGENDA ITEM #3: AQUACULTURE OPPORTUNITY AREAS

Ms. Bachman explained that NOAA Fisheries is seeking input on Aquaculture Opportunity Areas until December 22, and that Chris Schillaci from NOAA would be briefing the Council on this topic on December 1. The group agreed that it would be useful to develop comments in response to the request for information. Ms. Smith said she would follow up with Ms. Bachman on conversations happening around this issue in Maine. Ms. Bachman indicated that she could follow up with PDT members from MA and RI to see what those states might be considering.

AGENDA ITEM #4: 2021 COUNCIL PRIORITIES

Ms. Bachman summarized the 2021 habitat work priorities approved in October, noting that she expected PDT consideration of information related to the northern edge action to begin early next year, with Committee and AP discussions to follow later. She asked that members please share any feedback they have on the range of issues to consider for that action so that important factors don’t go overlooked and can be investigated by the PDT.

The meeting adjourned at 5:06 p.m.