



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

Eric Reid, *Chairman* | Thomas A. Nies, *Executive Director*

## MEETING SUMMARY

### Habitat AP and Committee

October 26, 2021

9:00 am -1:15 pm

Via Webinar

The Habitat Committee and Advisory Panel (AP) met jointly on October 26, 2021 via webinar to discuss offshore renewable energy development, including a review and possible approval of updates to the Council’s policy on renewable energy, updates on the potential Northern Edge habitat management action, updates on regional aquaculture issues including the Blue Water Fisheries project, ongoing work in the Stellwagen Dedicated Habitat Research Area (DHRA), 2022 habitat-related Council research priorities, and to discuss any other business.

**MEETING ATTENDANCE:** Committee: Eric Reid (Committee Chair), Peter Aarrestad, Togue Brawn, Lou Chiarella (GARFO), Libby Etrie, Scott Olszewski, Geoff Smith, Melissa Smith, and Kate Wilke (MAFMC); Advisory Panel (AP): Chris McGuire (AP Chair), Beth Casoni, Rip Cunningham, Ben Haskell, Lane Johnston, Meghan Lapp, Elizabeth Marchetti, Drew Minkiewicz, Ron Smolowitz, and Dave Wallace. NEFMC staff: Michelle Bachman (Plan Development Team Chair), Jenny Couture, Rachel Feeney, and Chris Kellogg; NOAA GARFO: Doug Christel, Moira Kelly, Chris Schillaci, David Stevenson, and Alison Verkade. In addition, one other Council member and approximately eight members of the public attended, including other members from the PDT and an offshore wind representative.

**KEY OUTCOMES:**

- Members received updates on various topics including potential updates to the Council’s policy on renewable energy development, a potential Northern Edge Habitat Management Area action, aquaculture (with a focus on the Blue Water Fisheries project), and 2022 Council research priorities related to habitat.
- The Committee and the AP agreed to forward the Council’s Wind Energy Policy document as modified during the meeting for the Council’s approval in December.
- The AP and Committee were briefed on The Nature Conservancy’s Marine Mapping Tool and on the work occurring in the Stellwagen Dedicated Habitat Research Area.
- Members recommended the Council consider and adopt all habitat-related 2022 work priorities during its December meeting, while considering resource and time constraints.

## ***AGENDA ITEM #1: UPDATES ON OFFSHORE WIND***

### ***Presentation – Wind Policy Updates***

Ms. Bachman updated the AP and Committee on offshore wind topics including a review of potential updates to the Council’s policy on renewable energy development with the goal of NEFMC approval during its December 2021 meeting and possible opportunity for the Mid Atlantic Fishery Management Council (MAFMC) approval during its December 2021 meeting. Policy changes focused on specifying best management practices and stakeholder engagement, recommendations on project siting and environmental review, construction and operations, navigation and safety, research and monitoring efforts, and compensation and mitigation measures.

### ***Discussion***

An AP member asked if there was a reason why the policy document does not include research on mitigating ecosystem impacts on fisheries due to wind farms. A couple of Committee members discussed listing deep-sea corals as part of the complex habitat and differentiating between the purpose of Construction and Operations Plans (COPs) and Environmental Impact Statements (EISs) within the policy document. Staff plan to tweak the policy language to better delineate the purpose of a COP vs an EIS. Another Committee member inquired whether export and inter-array cable burial should be noted as a means to mitigate against electromagnetic field (EMF) and heat effects, in addition to preventing bottom-tending fishing gear interactions. Several Committee members suggested the following: clarifying that the definition of sustainable fisheries is intended to encompass both economic and biological sustainability; including ‘avoid, minimize, and mitigate’ impacts language consistently throughout the document; noting other water entrainment options are available; and broadening the compensatory mitigation fund statement to include not just direct compensation for losses, but fisheries development funds.

There was extensive reworking of the statement on mimicking adjacent habitats when protective scouring material is used. The revised language specifies that the value of these artificial habitats should be explicitly identified in terms of the fishery species those habitats could support. (The draft language said ‘habitat’ only, and the importance of these artificial reefs as habitat for managed species was implied.) Mr. McGuire will send staff a couple of references related to scour materials selection to include as a footnote in the policy document. The group also had a longer discussion about whether to reference specific stakeholder groups throughout the document, vs. keeping the policy more general. Some members felt it was important to single out the Responsible Offshore Science Alliance in the policy, both as a target for BOEM and developer engagement, and as the author of regional fisheries monitoring framework and guidelines. (The PDT’s draft was written in this fashion.) The rationale was that the Council is a member of ROSA. Others thought that it would be better not to single out specific groups in the policy, but rather to indicate types of organizations.

A revised version of the policy document will be provided to the Council for potential approval during the December 7-9 meeting, along with the summary of this meeting. MAFMC’s Ecosystem and Ocean Planning Committee will discuss the policy on November 29.

- 1. MOTION: ETRIE/SMITH** The Committee and Advisory Panel agreed to forward the offshore wind energy policy as modified today to the Council.

The Advisory Panel adopted the motion by consensus.  
Separately, the Committee also adopted the motion by consensus.

### ***Presentation – Marine Mapping Tool***

AP Chair Chris McGuire provided an overview of The Nature Conservancy's [Marine Mapping Tool](#) which was developed to help identify species that are persistently abundant in a certain location using data from the Northeast and Mid-Atlantic data portals. Fishing effort and habitat data are also included in the tool.

### ***Discussion***

An AP member asked whether effort data (such as trawl survey data) are standardized such that areas with more or less survey effort are accounted for within the mapping tool.

### ***Presentation – Other OSW Updates***

Staff also provided updates on upcoming joint scoping letters with the MAFMC including for Atlantic Shores (off New Jersey, due November 1) and Mayflower Wind (off Massachusetts, scoping period is expected to begin on November 1). Brief updates on other wind projects were also discussed including the floating lease request in the Gulf of Maine and upcoming offshore wind-related meetings and milestones for NY Bight leasing. An advisor informed members that Equinor recently selected Vestas as its preferred supplier with plans to use 15 MW turbines for the Empire Wind project.

## ***AGENDA ITEM #2: UPDATES ON NORTHERN EDGE HABITAT MANAGEMENT***

### ***Presentation***

Ms. Bachman updated the AP and Committee on recent and ongoing work for the potential habitat management action for the Northern Edge including the development of a white paper and evaluation of the Gallagher, et al. Research Set-Aside (RSA) Before-After-Control-Impact study. The PDT plans to focus the white paper on information related to understanding the adverse effects of fishing on habitats in the region, but has reviewed other data, for example recent fishing activity, as well. Dr. Gallagher provided a written report to the PDT in mid-September and the team is reviewing this work in the context of previous determinations related to adverse effects minimization. The PDT will continue to write sections and further refine the white paper with a goal to finalize the document in December/January and the AP and Committee to review possibly in January.

### ***Discussion***

A Committee member inquired about the geographic scope of this potential action and staff noted that the spatial extent is northern Georges Bank, east of Closed Area I to the Hague Line, including the Georges Shoal area. An advisor asked if and what other studies besides Dr. Gallagher's study are included in this preliminary work including groundfish spring and fall surveys. Ms. Bachman noted that review of the survey data would likely be a next step if the Council decides to move forward with an action. A couple of members expressed frustration on how slow this work is progressing and that the white paper is not evaluating any progress towards achieving the Closed Area II's original objectives which were to protect juvenile cod. Staff and the PDT are working on several other projects, have spent extensive time grappling

with the scope of the work, and only recently received Dr. Gallagher's final BACI report in September, which all have contributed to the pace of the white paper development. This activity is a multi-year priority.

### ***AGENDA ITEM #3: UPDATES ON AQUACULTURE***

#### ***Presentation***

Council staff updated the AP and Committee on the Blue Water Fisheries project off the coast of New Hampshire, namely the recent inclusion of Atlantic salmon as part of this project proposal, and a brief reminder about the existence of the Council's Aquaculture Coordination Plan that was approved in April 2021.

Mr. Schillaci presented on the status of Aquaculture Opportunity Areas informing members that the third region will be selected soon but is not likely going to be New England given the mixed support for aquaculture in the region (the first two areas are the Gulf of Mexico and Southern California). He noted that the Manna Fish Farm south of Long Island, NY has made little progress since their pre-application meeting but are working on another project in the Gulf of Mexico which may be diverting their focus. The NEMAC mussel longline farm off Cape Anne is also underway, though ESA consultation could not be initiated due to an incomplete Biological Assessment. Mr. Schillaci noted that NMFS was recently designated as the lead agency for the Blue Water Fisheries project (which will include an EIS) and that the project size and expected annual fish production remains the same, just now includes Atlantic salmon in addition to steelhead and lumpfish (which is used to remove parasites from farmed fish). In addition to NMFS, the Army Corps of Engineers and the EPA are also involved in the environmental review process and ESA consultation. Given the recent addition of Atlantic salmon as part of the project, NMFS is deliberating on the range of possible actions the Council and NMFS need to take to allow for salmon aquaculture projects in the EEZ, including a possible Council framework to authorize salmon aquaculture in the EEZ.

#### ***Discussion***

An advisor expressed concern over emerging offshore aquaculture projects and the potential for additional vertical lines in the water considering the recent final rule for the lobster fishery, which added and expanded current areas closed to pot/trap fishing. GARFO staff noted the project requires a Section 7 ESA consultation similar to Council fishery management plan actions and that the protected resource impact section will evaluate the impacts of vertical lines.

A Committee member noted that the Gulf of Maine distinct population segment of Atlantic salmon is endangered under ESA. He voiced concerns with disease, escapement, etc. and the need to protect wild salmon population. Mr. Schillaci commented that aquaculture has shown to support restoration efforts through stocking programs and that control measures have been developed to mitigate risks from aquaculture. Note that geographically the DPS ranges from roughly Casco Bay to the Canadian border and includes inland freshwater habitats as well as estuaries. A subset of the overall DPS area is designated critical habitat<sup>1</sup>.

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<sup>1</sup> [Section 7 Species Presence Table: Atlantic Salmon in the Greater Atlantic Region | NOAA Fisheries](#)

#### ***AGENDA ITEM #4: STELLWAGEN DEDICATED HABITAT RESEARCH AREA***

Mr. Haskell briefed the AP and Committee on the recent scientific work occurring in the Stellwagen Dedicated Habitat Research Area (DHRA), which addresses both the Council and Sanctuary research priorities. The main objective of this work is to assess the status and dynamics of seafloor habitats and communities in the region with a particular focus on changes in natural disturbance and benthic communities within the DHRA. Due to limited personnel and funding, the findings within the DHRA cannot be compared to outside this region. The members of the AP, Committee, and the public did not have any questions or comments.

#### ***AGENDA ITEM #5: HABITAT-RELATED 2022 COUNCIL PRIORITIES***

Ms. Bachman briefed the AP and Committee on the status of the 2021 work priorities and the draft 2022 habitat-related work priorities. The potential priorities added to the list during the September 2021 Council meeting included: 1) developing an action to consider authorizing salmon aquaculture in the EEZ and 2) considering a new Habitat Area of Particular Concern (HAPC) designation for complex habitat in Southern New England.

#### ***Discussion***

One Committee member asked how the timing of any HAPC designation would affect offshore wind development that is already underway. GARFO noted that this designation does not have any regulatory authority associated with it and that it is merely a tool for NOAA to use to justify recommended conservation measures related to proposed offshore wind activities within the HAPC. For decisions already made, the designation will not have any impact but could help influence future projects.

Another Committee member inquired about the Council's role in salmon aquaculture projects given the Council does not manage aquaculture. Because Atlantic salmon is a NEFMC-managed species, and because the FMP includes the provision for Council authorization of aquaculture in the EEZ, the New England FMC has a greater role in the process than if the project included only non-managed species such as steelhead. GARFO staff provided a couple of examples of Council management of aquaculture in other regions. In 2019, the U.S. District Court for the Eastern District of Louisiana ruled that the NMFS could not create an aquaculture program for the Gulf of Mexico via an amendment developed by the Gulf of Mexico FMC, and in 2020, the U.S. Court of Appeals for the 5<sup>th</sup> Circuit upheld this ruling. However, the ruling only applies within the 5<sup>th</sup> Circuit and thus not to our region. NMFS, in coordination with the Western Pacific FMC is currently moving forward with an aquaculture management program<sup>2</sup>. A Draft Programmatic EIS was published in May 2021.

Several advisors and Committee members commented on the time commitment to complete all draft priorities and whether any particular item should take priority. A few members noted that the NEPA analyses of other Council management actions are regulatory requirements which must be completed to support other plans. Staff noted that these analyses for other plans generally take a few weeks per year, total, so this is a relatively minor activity compared to developing an action. Some members of the advisory panel recommended that the Northern Edge white paper and potential action should have the highest priority because it is of significant

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<sup>2</sup> [Potential Aquaculture Management Program in the Pacific Islands | NOAA Fisheries](#)

economic importance to the fishing industry, and that other Council actions (salmon aquaculture authorization, designation of HAPCs) should follow. Conversely, issues where the Council has the least influence/authority (i.e., offshore wind) should have the lowest priority. A couple of other members stated the importance of continuing to work on offshore wind issues, including collaborating with the MAFMC on submitting comment letters for proposed offshore wind projects. Staff noted that offshore wind activities do take a substantial amount of time. In particular, writing wind project scoping comments was time consuming this year, although to some extent the large number of projects entering scoping in 2020 was somewhat unexpected when the Council discussed priorities last October. We know that DEIS documents for these projects are likely to be available for public review next fall, so the desire to engage in this aspect of wind development will need to be balanced with development of Council actions and other offshore wind and aquaculture engagement. Staff are also involved in the Northeast Regional Habitat Assessment project, which will conclude in July 2022, and participate on the Atlantic States Marine Fisheries Commission Habitat Committee.

Following this discussion, the Committee agreed to forward all items to the Council for further consideration in December. Staff noted that additional planning will occur during November to assess the possible workload associated with these activities, especially the salmon aquaculture and HAPC actions.

***AGENDA ITEM #6: OTHER BUSINESS***

No other business was discussed. The Habitat Committee and AP meeting adjourned at approximately 1:15 p.m.