New England Fishery Management Council
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Eric Reid, *Chairman* | Thomas A. Nies, *Executive Director*

MEMORANDUM

DATE: October 18, 2021

TO: Habitat Committee

FROM: Habitat Plan Development Team

SUBJECT: **Revisions to 2018 Council Policy on Wind Energy**

Background and need for revisions

NEFMC has adopted policies related to the environmental and fisheries effects of various non-fishing development activities, including wind energy, oil and gas development, submarine cables, and aquaculture. These policies facilitate staff development of comment letters on the Council's behalf. This is important because many comment periods open and close between Committee or Council meetings, leaving limited opportunities for group discussion of specific comments. Council policies are also useful for quickly and concisely conveying the Council's findings on specific offshore development issues to outside groups.

During 2015 and 2016, the Mid-Atlantic Fishery Management Council (MAFMC) drafted and adopted a policy on wind energy. The exact language of the MAFMC policy was discussed and adopted by NEFMC in June 2018. Since that time, both Councils have increased their engagement in offshore wind issues and developed substantial expertise in this area. The Council routinely comments to the Bureau of Ocean Energy Management (BOEM) on individual offshore wind projects (e.g., during scoping periods or in response to draft environmental impact statements or environmental assessments) and on regional planning issues (recently this has included leasing in the New York Bight). The Council has also provided input on United States Coast Guard (USCG) port access route studies, or PARS. See here for correspondence: https://www.nefmc.org/library/nefmc-comments-to-federal-agencies. Most of our recent comment letters on offshore development issues have been written collaboratively with MAFMC and sent jointly on behalf of both Councils, indicating that the concerns of the two organizations are well-aligned.

NEFMC agreed to consider revisions to the policy as a 2021 work priority, and the Habitat PDT worked to update the policy document during summer 2021. The PDT recommends updating the policy to encompass the issues we are already raising in comment letters to BOEM and USCG, and has suggested various additions to that effect. Note that the Council partners regularly with NOAA Fisheries to understand offshore wind issues and develop comments on specific projects, and NOAA Fisheries staff on the Habitat PDT helped draft the revised policy. Other PDT members and MAFMC staff also contributed to these revisions. If these revisions are approved, our policy would be more expansive than, but not conflict with, the existing policy language adopted by both Councils. The MAFMC may consider making similar updates to their policy at a later date.

The Council participates in the Responsible Offshore Science Alliance (ROSA) and has an interest in high quality, regionally integrated research and monitoring. The PDT recommends updating the policy to reflect current research findings and our understanding of open/important scientific questions. Identification of additional research questions related to offshore wind via the Council's research priority process is expected to continue, and this policy is not intended to replace or duplicate those efforts.

Note that there is a substantial body of literature related to the interaction between protected species and other wildlife (marine mammals, sea turtles, birds, and bats) and offshore energy facilities. The Council's existing wind energy policy does not include wildlife issues, and generally they are not discussed in Council comment letters given that they fall largely outside our expertise. The suggested updates do not encompass wildlife concerns.

The current wind energy policy, and other habitat policies, are linked off this page: https://www.nefmc.org/library/nefmc-habitat-policies-for-offshore-energy-aquaculture-submarine-cables. Note that there is some redundancy between the wind energy and cable policy documents, but they are intended to be consistent with each other. The cable policy can be applied to offshore wind projects, as well as other types of cables, such as those used for telecommunications.

Suggested revisions

- Added introduction similar to aquaculture and cable policies.
    - *Rationale*: Provides context for policy as a stand-alone document, when distributed separately from the Operations Handbook
- Added categories/headings to document: best management practices and stakeholder engagement, project siting and environmental review, construction and operations; navigation and safety; research and monitoring; and compensation and mitigation.
    - *Rationale*: Improves readability.

- Specified that BOEM and wind developers should engage with the Councils, ROSA, and NOAA Fisheries.
    - *Rationale*: Original policy only specified engagement with the fishing industry and Federal and state agencies.
- Added a statement on habitat surveys, recommending that benthic habitats in wind energy areas should be mapped and characterized based on NOAA Fisheries Recommendations for Mapping Fish Habitat (Chiarella 2021).
    - *Rationale*: Such characterizations are needed to accurately assess essential fish habitat impacts from wind development.
- Added a statement enumerating considerations for analysis of impacts to habitats, fish, and fisheries, including effects related to habitat conversion and loss, sedimentation and scour, hydrodynamic effects, etc., on all lifestages, within and beyond the project area, emphasizing impact avoidance first, then minimization, then mitigation.
    - *Rationale:* Substantial expansion of statement in original policy focused only on scour and sedimentation effects to cover full range of impacts that might occur.
- Added a statement recommending that Environmental Impact Statements include alternatives designed to minimize impacts on habitats and fisheries.
    - *Rationale:* Consistent with recent Council and NOAA Fisheries comments on projects; these sorts of alternatives have already been included in some documents.
- Added a statement encouraging precautionary decision making when concerns are identified based on ongoing research.
    - *Rationale:* Offshore wind development is proceeding rapidly, with environmental review and permitting ongoing while research into potential impacts is actively being conducted. Precaution is important as projects will be in place long term.
- Expanded upon transmission cable policy statement on avoiding construction in sensitive fish habitats to include placement of wind turbines, electrical service platforms, and any other offshore structures, in addition to cables.
    - *Rationale*: Original wind energy policy only included reference to transmission cable location.
- Expanded upon transmission cable burial depth statement to state that all cables should be removed during decommissioning.
    - *Rationale*: Note that the cable policy does not reference a specific depth, rather a depth that avoids impacts, which was intentional, and is repeated here. The wind developer's construction and operations plans are not always clear that the cables will be removed during decommissioning. The cable policy is not as definitive on removal vs. decommissioning in place, but is intended to encompass both electrical and telecommunications cables; telecommunications cables in particular can be located in very deep water such that considerations around decommissioning cables that run through sensitive habitats might be different

than for shallower water electrical transmission cables associated with offshore wind development.

- Added a statement that cable and turbine scour protection materials should mimic adjacent habitats when possible, or if not should be selected based on habitat value provided.
    - *Rationale*: To help mitigate any loss in benthic habitat (value and function) due to cable and turbine installation. See HDR 2020, p. 230 for statement on use of concrete mattresses.
- Expanded noise minimization policy statement to include noise generated from acoustic sampling devices during surveys and noise from maintenance vessels during operation.
    - *Rationale*: Previously only included noise generated from survey vessels during surveys and noise from operational turbines.
- Added a policy statement to avoid in-water activities during spawning seasons and settlement periods when possible, otherwise, require use of mitigation measures.
    - *Rationale*: Need to minimize impacts to vulnerable species with distinct spawning and settlement locations (e.g. Atlantic cod, Zemeckis, et al. 2019). The Councils and NOAA Fisheries routinely recommend time-of-year restrictions to protect fisheries resources.
- Added a statement related to the effects of water entrainment (i.e., for cooling systems).
    - *Rationale:* We are beginning to see such systems proposed for projects with direct current (DC) export cables and associated DC to AC conversion stations.
- Added a statement supporting turbine and transit lane arrangement and spacing, including coordination across projects and consultation with fishermen.
    - *Rationale*: Will help reduce impacts to fishing vessel navigation. The statement is worded flexibly to suggest coordination and fisheries engagement, without prescribing a specific approach such as a grid pattern at a particular spacing.
- Expanded the threats to safety and navigation to include vessel allisions with structures, impacts to search and rescue efforts, and a recommendation to routinely monitor safety issues within wind farms.
    - *Rationale*: Original policy only included monitoring of safety and navigation threats around wind farms.
- Added a statement that recommends marking floating wind turbines and other structures in the water column.
    - *Rationale*: Offshore wind technology has advanced since the original policy was adapted to include floating wind turbines, including a floating offshore wind research array in the Gulf of Maine (Governor's Energy Office 2021).
- Greatly expanded upon the research and monitoring section of the policy to specify this be done at project-specific and regional scales to understand both project-specific and cumulative effects on habitats and ecosystems (ROSA 2021). Update includes a list of

research topics on operational effects, acoustic impacts, habitat changes, long-term impacts, and differential acoustic impacts of larger vs. smaller turbines.
    - *Rationale*: Original policy only included research and monitoring needed to understand impacts of electromagnetic fields on aquatic species; there are many other questions to address. The forthcoming Synthesis of the Science report will summarize a diverse range of outstanding research questions and we reference this report in the policy or via the Council webpage once it is released. Language refers to Council research priorities.
- Added a statement recommending coordination of habitat, geological and geophysical, and fisheries surveys across projects, both prior to and during construction, and for ongoing monitoring.
    - *Rationale*: This will help ensure survey results can be combined across projects to monitor cumulative regional effects. The language also recommends that interactions between surveys be considered; for example will noise from acoustic surveys influence catchability of fishes and invertebrates in trawl or trap surveys occurring at the same time or shortly thereafter?
- Added a statement on identification and mitigation for federal and state-run fishery independent monitoring surveys (NOAA 2021).
    - *Rationale*: Certain ongoing fisheries independent surveys will be unable to continue within wind farm areas due to the presence of structures. The loss of data from these time series may in turn affect stock assessments and thus catch advice. Mitigating these losses will require investments in new and modified monitoring approaches, and calibration work.

References

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