

# South Atlantic Fishery Management Council

## Habitat and Ecosystem Advisory Panel

### Job Description

September 2021

The Magnuson-Stevens Act (MSA) allows Councils “establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.” The South Atlantic Fishery Management Council (Council) established its Habitat and Ecosystem Advisory Panel (HEAP) to provide guidance on habitat designations and threats. Activities include assisting the Council in identifying and specifying Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC), identifying threats to EFH and HAPC, and developing comments in response to activities that may impact EFH and HAPC. Additionally, the HEAP helps the Council develop policies on habitat related issues to enable the Council to promptly respond to habitat activities. HEAP members also serve as the Council’s habitat contacts and professionals in the field. The HEAP is structured and tasked differently than the Council’s fishery advisory panels.

### I. Authority

The Habitat and Ecosystem Advisory Panel is established under Section 302(g)(2) of the MSA. Consistent with MSA provisions, decisions and recommendations of the HEAP are advisory in nature.

### II. Responsibilities

The HEAP is responsible for providing guidance and recommendations to assist the Council in addressing its habitat related obligations under the MSA. The primary Council obligation as stated in the MSA is to:

*“describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;”*

The Council is further authorized to comment on activities that may affect habitat, through Section 305(b)(3):

*“(3) Each Council—  
(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and  
(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.”*

### III. HEAP tasks

- Provide recommendations to the Council to assist in identifying EFH and HAPC.
- Assist the Council in identifying and responding to potential threats to EFH and HAPC. Assist staff in drafting comments for review and consideration by the Council to address specific habitat impacts and threats.
- Provide recommendations to assist the Council in responding to EHF and HAPC threats and impacts. Assist staff in drafting habitat policy statements for review and approval by the Council.
- Review habitat information in Council FMPs and amendments.
- Provide recommendations on habitat related research and monitoring priorities.
- 9. The HEAP shall perform such other necessary and appropriate duties as may be requested by the Council to carry out its functions under the MSA.

### **III. HEAP Meetings and Activities**

The HEAP meets as needed and directed by the Council. Typically, the AP meets twice per year. Meetings may be held in-person, in Charleston, SC, or virtually via webinar. Meeting time is devoted to presentations of materials, discussions of issues, and developing recommendations for the Council. The HEAP will prepare a written report to document its recommendations, and the report and recommendations will be presented to the Council by the Chair. The Council expects a final written report within two weeks of the conclusion of each SSC meeting.

#### ***Ad-Hoc, Working Group, and Subcommittee Meetings***

The HEAP occasionally convenes *ad hoc* subcommittees and working groups to address specific issues. Such groups conduct their business in the most efficient and convenient means available to enable them to complete their assignments within occasionally tight timelines. Group tasks may be accomplished through email strings, video conference, and meetings. HEAP members will be asked to volunteer for these groups. Groups may consult with other experts who are not HEAP members but such individuals are not group members. Each group will select a group leader from their membership; the group leader must be an HEAP member.

#### ***State Sub-Panels***

The HEAP includes 4 designated state sub-panels, composed of representatives from the state marine fisheries agency, USFWS and the state coastal zone management agency, and a conservationist. These panels provide recommendations on Council related habitat issues in their state and may meet separately from the full HEAP. Sub-panels can be tasked to draft recommendations and comments for Council responses to habitat impacts and threats in their area. Each state sub-panel will select a panel leader from its membership.

### **IV. Council Expectations Regarding Meeting Deliberations**

- The HEAP shall operate under consensus rather than formal voting. The expectation for consensus applies to the comments and recommendations put forth for the Council and does not require the HEAP to unanimously agree on a single answer or position for every issue. Consensus statements should be developed that provide the Council

guidance on the full range of alternatives and that address uncertainties related to recommendations.

- HEAP recommendations shall be based on science and scientific principles. The use of references and scientific documentation to support recommendations is encouraged.
- HEAP members shall maintain appropriate professional standards at all times when representing the Council, whether at an HEAP meeting or other Council-supported activity. HEAP members should be aware of the broader audience interested in their deliberations, and that HEAP meetings are public meetings and broadcast via the internet. Off the cuff remarks and inappropriate language should be avoided.
- Personal attacks will not be tolerated. The Council recognizes that advancement in science is often preceded by disagreement and therefore encourages spirited discourse. However, professionalism must be upheld and those who descend into personal attacks or intimidation may be removed from the Committee.
- All members are expected to participate in the HEAP's discussions and report preparation.
- Participation on the HEAP, or any other Council advisory panel, does not provide members an 'inside track' for commenting on issues before the Council. Comments submitted to the Council by an HEAP member that are not part of an HEAP report must follow the Council's public comment process.

## **V. Membership and Appointment Policies**

### **Membership Composition**

- HEAP members shall be appointed by, and serve at the pleasure of, the Council.
- The HEAP shall be composed of scientists with habitat, biological, ecological, and ecosystem expertise, and other relevant disciplines as identified by the Council to meet its needs. Members may include Federal, State, university and private scientific communities and whatever other source the Council deems appropriate.
- Individuals employed by or otherwise receiving any compensation from advocacy, lobbying or interest groups are not eligible to serve on the HEAP.
- The HEAP shall elect a chair and vice-chair from among its members to serve terms of 2 years or until a successor is elected.
- The HEAP includes 26 members.

Designated HEAP membership seats, by state sub-panel and at-large:

*(NC Sub Panel)*

NC DMF  
NC, USFWS  
NC CZM  
NC Conservationist

*(SC Sub Panel)*

SC DNR  
SC, USFWS  
SC CZM  
SC Conservationist

*(GA Sub Panel)*

GA DNR  
GA, USFWS  
GA CZM  
GA Conservationist

*(FL Sub Panel)*

FL FWCC  
FL, USFWS  
FL CZM  
FL Conservationist

*(At-large members)*

NMFS SEFSC  
NMFS SERO  
NMFS HCD  
ASMFC  
BOEM  
US Navy  
HBOI/FAU/NOAA COEIRT  
At-Large Researcher 1  
At-Large Researcher 2  
At-Large Researcher 3

**Terms of Members**

- At-Large Researcher and Conservationist members will be appointed for 3-year terms. Members may serve subsequent terms.
- Membership terms begin 1 month after Council appointment.

**Termination of Membership**

An HEAP member may be replaced at the Council's discretion if:

- They transfer employment or move to a different location.
- They are absent from two consecutive meetings without giving adequate notification or reason to the Council Executive Director.
- They appear unable or unwilling to fulfill their obligations as an HEAP member.
- Their area of expertise is no longer required.
- The Council determines they should be removed for just cause (e.g., violation of marine resource law and felony conviction, etc.; these examples are not all inclusive).

## **Appointment and Replacement of Members**

HEAP vacancies will be filled by the Council following its AP appointment process.

- Applications to fill vacancies for designated agency seats will be solicited from the appropriate agency or organization.
- Applications for at-large and conservationist seats will be advertised consistent with notifications of other AP vacancies.
- When vacancies occur on the HEAP due to resignation or Council action removing a member:
- Vacancies will be filled at the next scheduled Council meeting.
- Vacancies of state and federal agency and university designated seats will be filled by a representative of that agency.
  - If the vacancy is due to a change in agency personnel, the agency shall designate a replacement in writing through a letter to the Council Executive Director.
  - The replacement HEAP representative designated in writing by the agency may serve as an HEAP member prior to Council appointment.
  - The Council Chair, Executive Director, and Habitat Committee Chair may appoint agency-designated HEAP members to fill a vacant agency seat.