



THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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Habitat and Ecosystem Advisory Panel Summary Report

Stacie Crowe, Chair | Paul Medders, Vice Chair

Crowne Plaza Charleston Airport, 4831 Tanger Outlet Blvd, North Charleston, SC 29418

April 24-25, 2024

The South Atlantic Fishery Management Council's (Council) Habitat and Ecosystem Advisory Panel (HEAP) convened in Charleston, SC from April 22-24, 2024.

The HEAP approved minutes from the November 2023 meeting and the agenda for the April 2024 meeting.

There was no public comment given during the public comment session at the beginning. During the final public comment period one representative of SAFMC and Florida commented on the need for a Storm Water Policy and the need to update the Submerged Aquatic Vegetation Policy. She also thanked the HEAP for looking into updating the policy on Alterations to Riverine, Estuarine, and Nearshore Flows to address concerns regarding the Indian River Lagoon. There were no written comments submitted.

1. NOAA Fisheries EFH 5 Year Review (*Attachment 1*)

Description: Stacie Crowe, AP Chair, recapped the EFH 5-year review process and progress to date. The Subcommittee formed at the May 2023 meeting to support the EFH Review for the Limited FEP II update (Prey and References) gave a verbal report. The Buttonwood Clarification Subcommittee and the Tidal Freshwater Boundary Subcommittee recommendations were received during the November 2023 meeting and approved by the Council in December 2023. The recommended edits were incorporated into the EFH User Guide. Kathleen reviewed the edits made to the EFH User Guide.

AP discussion:

- Provide input on the Subcommittee report supporting the EFH review.
 - The original charge was to update the FEP 2 document, but over many webinars with Chip Collier (SAFMC) and Lauren Gentry (FLFWC) it was decided that updating the 2016 Food Web policy and then integrating the updates into the EFH guidance would be of better use.
 - Kevin Spanik is working with dietary centers in SEAMAP, Chesapeake Bay, and the Virginia Institute of Marine Science to gather more information.
 - Wilson Laney is conducting a literature search to make certain the policy document references are up to date.
 - The workgroup needs to define importance and prey as well as answer how to handle generalist versus specialist prey.
 - If a species occurs in a large volume of diet, then the HEAP can discuss recommending that it be evaluated as an ecosystem component species. The workgroup could also produce a list of species designating important prey species for each habitat.
 - The working group should review methods used by other Councils.
 - There is an Emerging Fisheries Policy being developed by the Mid-Atlantic Council. This is meant to protect forage species from over exploitation. This policy could be a framework to direct the Council for up-and-coming fisheries.
 - Especially important for climate ready fisheries
- Provide input on the edits made to the EFH User Guide if necessary.
 - Kathleen reviewed the two working group recommendations that were added into the EFH user guide. The panel reviewed these changes and provided edits.

AP Action

- **The HEAP recommends that the subcommittee move forward with updating the Food Web policy.**
- **The HEAP recommends the Council investigate creating an Emerging Fisheries Policy to protect potential prey species from over exploitation.**
- **Edits provided by the panel will be incorporated into the User Guide and the document will be made available online prior to the June Council meeting.**

2. EFH Policy Statement on Energy (*Attachments 2a and 2b*)

Description: Paula Keener, Energy Policy Workgroup Chair, highlighted the activities of the Workgroup and reviewed the draft Energy Policy update, which refines the core policy addressing primarily oil and gas exploration and develops a new section highlighting renewable energy and offshore wind development.

AP Action: Provide recommendations if needed to further update the policy to prepare for Council approval.

- The panel reviewed the process of how policies were used and the outreach plan for the HEAP.
- **Include the Mid-Atlantic EFH assessment template and GARFO's EFH mapping recommendations as references in the energy policy.**

3. Long term Impacts of wind farms and windfarm removal (*Attachments 3a and 3b*)

Description: Lela Schlenker and Nathan Craig provided a description of the Kitty Hawk and Carolina Long Bay wind farm projects including material usage, timelines, and general descriptions about decommissioning. Seth Theuerkauf (BOEM) reviewed the current decommissioning guidelines and procedures for the South Atlantic.

AP Discussion: Discuss the long-term effects of wind farms on the surrounding habitat in the South Atlantic.

Kitty Hawk and Carolina Long Bay discussion

- Nature inclusive designs are being included in the planning process. For example, Reef Innovations cube, Articulating mat, Repurposed concrete boulders, EConcrete scour protection units, and Reefmaker units.
- Fishery Monitoring plans
 - Kitty Hawk monitoring plan seems to be built as a small-scale study for potential scour materials.
 - Acoustic receivers are being used in Kitty Hawk and maybe also be used in Carolina Long Bay. Kitty Hawk is an important location in regard to climate-based movement and utilizing acoustic receivers may be very helpful. The panel recommends beginning acoustic tracking prior to the two years start of the Fishery Monitoring plan.
 - After the Fisheries monitoring plan for both windfarms are approved by BOEM, the plan will be released to the public for proposals.
 - The biological activity in the areas should be assessed prior to the lease and should be in the fisheries monitoring plan 2 years prior to and after installation.
- Are there any comments on the cable export route specifically Kitty Hawk south through Pamlico sound.
 - All cable options are being considered. Right now, the route through Atlantic Beach has the most information but all cable options are available.
- Turbines are rated to withstand category three hurricanes. The blades can adjust for the wind speed and direction. Based on average hurricane size and number, the structures shouldn't be at risk.
- How will independent and fishery dependent surveys be affected will there be an exclusion zone? How will this change historical survey design?
 - BOEM or the lease will note set exclusion zones within the wind energy area; however, NOAA/ fisheries science centers do not sample within the wind energy areas per their own guidelines.
 - SEFSC is modifying survey techniques and has purchased a new vessel. They can't sample in these field yet due to field size. SEFSC is working on sampling techniques to adjust.
- Are you monitoring for e-DNA or microplastics?
 - E-DNA yes
 - Microplastics not yet
- Are you conducting lionfish or invasive species monitoring?
 - Trap videos or e-DNA would be the best methods to do this.

- This is not currently in the plan, but SEFIS will monitor the Kitty Hawk lease in the fall.
- Lionfish are known to follow cable heat and may move north depending on cable placement.
- Interesting to see how quickly and to what degree southern species move north with the addition of the hard substrate.
- RWSC (Regional Wildlife Science Collaborative) is trying to monitor climate movement starting with a map where sampling is occurring.

Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE) discussion

- Who is responsible for cleaning up in the event of a disaster?
 - The developer should include post storm monitoring and the decommissioning plan should cover clean up if needed. Insurance should also cover these issues.
 - Projects are required to provide a bond for decommissioning.
- If the facility remains in place, then the original lessee is responsible unless a transfer of ownership occurs, and insurance is in place. The final step is that the liability transfers from the lessee to the state after the decommissioning is complete.

AP Actions:

Integrate the following into the Energy policy:

- **Integrate references on slide 4 and 5 of the BOEM/BSEE presentation (attachment 3b) into the energy policy.**
- **Add in language to the Mitigation BSIA section to ensure that decommissioning, as well as equipment loss due to disasters is covered financially.**
- **Add decommissioning language into the construction section for the energy policy.**
 - **Including follow up with states regarding permitting and responsibility of potential new reefs after decommissioning is complete.**
- **Emphasize considering inclusion of low risk or minimally invasive research projects into the fishery monitoring plans for wind farm projects earlier than 2 years, if possible, thereby accruing as much baseline data as possible (i.e., acoustic monitoring or e-DNA sampling visualizing past and future fish abundance)**
- **Emphasize that the data accumulated via monitoring and research should be publicly available.**

4. NOAA Fisheries HCD EFH Consultation Update (*Attachment 4*)

Description: Pace Wilber, NOAA Fisheries HCD, provided a review of Southeast EFH Consultation activities conducted in 2023.

AP Discussion: Comment on which areas may be a priority requiring additional engagement or possible input or guidance from the Council.

- Kitty Hawk North and South cable export route is of concern. What happens if they can't form a power purchase report with the northern option?
- An EFH Assessment and Consultation request is not due until March 6, 2025, so the proposed cable route is still up in the air. Sonar and sampling have occurred. If the proposed cable route for Kitty Hawk North changes from what is in the COP (i.e. landfall at Sandbridge in VA Beach), then Avangrid will need to

resubmit new alternatives to BOEM for a new offshore export cable/ cable corridor. This will push back the permitting timeline by years.

- The Army Corps of Engineers has a series of workshops to examine dredging in May 2024 in Charleston
- Why are shoreline stabilization (bulkheads) separated with living shorelines in your consultation counts?
 - Living shorelines are increasingly requested for EFH consultations so HCD decided to track them separately.
 - Green engineering and living shorelines are poorly defined. This is going to be a discussion at the upcoming Fall 2024 Habitat meeting.
- There are many docks and marinas consultations. Do we need a policy?
- This is just the Fiscal year of 2023, not cumulative; the impression is that these are representative of an average years' worth of consultations.

AP Action

- **During the Fall 2024 AP meeting decide, from the Council and AP perspective, what a living shoreline is defined as versus traditional shoreline stabilization projects.**
 - **Potentially add education on this subject to the outreach plan**
 - **Request a presentation from HCD for living shorelines.**
- **Suggest the Council investigate developing a shoreline stabilization policy.**
- **Add the pie chart detailing EFH consultations by number and acreage to the annual report.**
 - **Ask for direction from the Council regarding the number of marinas/docks EFH consultations.**

5. Annual Activities Report (*Attachments 5a and 5b*)

Description: In September 2023, the SAFMC approved the Habitat Blueprint. The Blueprint stated that “the HEAP will provide the Council an annual report addressing habitat activities.” The Habitat and Ecosystem AP developed a draft outline for this report which was approved by the Council December of 2023. The report will be submitted to the Council annually.

AP Action: Review the draft document. Provide feedback, tables, and images on the outline, approve wording, and finalize the annual report content as much as possible.

- **The Advisory Panel integrated their comments into the Annual Report Draft (Attachment 5b). These changes will be reflected in the revised document provided to the Council during the June 2024 meeting.**

6. Discuss revisions to the “Alterations to Riverine, Estuarine and Nearshore Flows” policy to address threats to the Indian River Lagoon (*Attachments 6a and 6b*)

Description: Daniel Kolodny gave a general description of the Indian River Lagoon and the issues that are affecting its habitat health.

AP discussion: Discuss the ramifications on the declining habitat health of the Indian River Lagoon and potential modifications to the River Flow policy to address these issues.

- Is there a fish monitoring program in the Indian River Lagoon (IRL)?

- Yes, the Florida Fish and Wildlife Conservation Commission (FWC) conducts monthly Fishery Independent Monitoring (FIM) surveys in both the northern and southern sections of the IRL.
- We need to emphasize how it's important to encourage National Estuary Programs (NEP) that are restorative and support their mission.
- When the flow policy was written they investigated the historical hydrological regimes and compared with present flows to inform the flow policy on how to keep estuaries healthy
 - What are the IRL flow targets? Kai Reigns and Mark Reigns conducted a study of waterways and channelization in the watershed. They have a good idea of what the historical water flow was.
 - Does this relate to everglades restoration, and can you divert the Okeechobee flow into that instead of IRL?
 - There are talks about connecting the water management districts and redirecting the freshwater flow.
- Connectivity component is as important as a flow component.
- This ties in with the tide gates issues we will be discussing in the Fall.
- Staff should investigate a potential Corps presentation for how a determination is made regarding bulkheads and impeding water flow and what would be more helpful for essential fish habitat (EFH) consults.

AP action:

- **Maintain communication with IRL Council, endorse and support recommendations for appropriate ecological flows.**
- **Considering the ongoing Indian River Lagoon problems and the upcoming tide gates issues request the Council add revising the Flow policy to the working plan.**
 - **Ensure a collaborative process to ensure consistent stance on construction projects that impede water flow i.e., state, federal, NGOs.**
 - **Look into Army Corps Atnip flow group (Bob Christian), river flow document (Stacie Feken), NC basin water quality plan process and NC watershed restoration plans for examples.**
 - **Contact the US geological survey as a consultant.**

7. Sackett vs EPA impacts on wetlands (*Attachments 7a and 7b*)

Description: Sheperd Grimes, NOAA General Counsel, reviewed the lawsuit and the potential impacts on wetland protections in the South Atlantic.

AP discussion: Discuss the ramifications of the lawsuit in the South Atlantic and any recommendations to the Council.

- This lawsuit will narrow the scope of EFH as defined by the Corps.
- EFH may not go that far inland under our jurisdiction.
- The major implication wouldn't be directly on the designated EFH but the quality of the EFH in terms of filtration and flow speed.
 - What about Ground water? Implications are unknown.
- You can't just cut off water and ignore connectivity because it is not navigable.

- The state still has the power to enforce their regulations.

AP action

- **Research to see if there are any SAFMC EFH areas that are impacted by this decision and if so monitor and evaluate.**
- **Review and evaluate the impact of state/local efforts to conserve wetlands that are now without protection under the CWA due to the change in definition of Waters of the United States (WOTUS).**
- **Inform EFH guidance for consultations triggered by activities in wetlands that are no longer protected by the Clean Water Act (CWA), to try to maintain water quality or other standards that existed prior to the change in the WOTUS definition. E.g., if EPA imposed water-quality standards that would no longer apply, can the Council recommend that such standards be maintained as a measure to mitigate any potential adverse effects to EFH as a result of activities occurring in a wetland no longer protected by the CWA.**

8. Amendment Coral 10 resubmission (*Attachment 8*)

Description: Kathleen Howington gave an update on the Coral 10 resubmission process.

AP discussion:

- The proximity to the Oculina HAPC is concerning.
- The sediment resuspension and bycatch should be addressed.
- What did this section look like prior to 2013?
 - Trawling was commonplace in this location for 50 years. Its mud bottom where the fishing occurs. Trawls occur parallel to reef and pull nets prior to turning. Only experienced captains trawl here. The area is narrow but when the shrimp move due to the Gulf Stream moving having the closure has an economic impact.
- The bycatch reduction device (BRD) works so the rock shrimp bycatch is small.
- The historical catch was about 1.6 - 8% of total rock shrimp catch. The percentage varies by year dependent on the Gulf Stream.
- Why not limit the length of the Shrimp Fishery Access Area (SFAA).
 - This would decrease the benefit to the Shrimp fishery.
- The scientific team believes that due to the strong current and only having two successful tows, that there is a chance that coral was missed in the 2022 study.
- They also believe that there probably was some coral prior to the fishery, and that coral could grow in this area if it remains closed.
- The HEAP feels that more research should be conducted prior to the opening of the SFAA.
- The impact of sedimentation on coral reproduction timing is unknown. Even extremely small sediment plumes at the wrong time could kill coral larvae.
- We have a need for balance in decision making. The HEAP would prefer to have a more reliable survey prior to opening the area up. Additionally, any information on known restructuring of the habitat and habitat quality would be helpful. These structures are incredibly old. They are the oldest known reef in the world, and it's not just the corals, there are many species that will be affected.

- The Council should consider what advancing this amendment means and what needs to be adjusted to make certain we are appropriately managing all of the affected resources.

AP Action:

- **No Action**

9. Citizen Science Program Update (*Attachment 9*)

Description: Julia Byrd provided an update on Citizen Science Program activities. Updates will be given on projects underway, Citizen Science advisory groups, the Program’s Project Idea Portal, and the SciFish platform, a mobile app and project builder to support the capture and sharing of data on Atlantic coast fisheries.

AP Action: Identify AP members interested in serving on the Citizen Science Projects Advisory Committee.

- **No volunteers during the meeting**

10. SAFMC Habitat Blueprint (*Attachments 10a and 10b*)

Description: Kathleen Howington reviewed the progress on the updated webpage for the Habitat Program and a group photo was taken to incorporate into the Habitat AP page. Kathleen reviewed the Blueprint goals and objectives, the current policies, the EFH User Guide goals, the next EFH five-year review, and the Habitat Workplan. The panel discussed the next meeting dates and methods.

AP Action:

- Provide feedback on website development.
- Current policy procedure
 - If a policy is older than 5 years the staff member should review the document and suggest to the chair if a policy needs to be updated
 - If no policies need to be updated, then that needs to be brought to the panel too.
- EFH user guide
 - Add in descriptive language clarifying that the EFH definition is in this document not on the visual maps.
 - HCD references the user guide for every consultation and it’s very helpful for the region.
- Next EFH five-year review
 - Maybe could involve reaching out for data integrating Ecopath with Ecosim (EwE)
- Long and short term workplan goals
- Next meeting
 - Avoid moving to March because September is the end of the Fiscal Year
 - Maybe move to August and February but keep the dates flexible.
 - Current potential meeting dates: Sept 30 – Oct 4 or Oct 28 – Nov 1

AP Action

- **Recommendations for the workplan will be integrated into the revised document and provided to the Council during the June 2024 council meeting.**
- **The panel prefers the Oct 28-Nov 1 week if the meeting avoids Halloween.**

Other Business

The Advisory Panel was reminded of the FISHstory Scanning Event to gather historic fishing photos for the FISHstory project that is being held April 24th.

Kathleen requested help with a SEAMAP Habitat Identification Working Group. The group is looking for a Habitat ID specialist. The goal of the group is to review habitat use of various south Atlantic surveys, and how to increase efficiency of surveys by coalescing survey goals and habitat use. The group is initially focusing on LL surveys. The group will meet via Webinar only on a quarterly basis.

Charlie Deaton and Claire Pelletier from North Carolina have volunteered.