



**Mid-Atlantic Fishery Management Council**  
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## MEMORANDUM

**Date:** November 24, 2015  
**To:** Council  
**From:** Jessica Coakley, Staff  
**Subject:** Development of Council Policies on Non-fishing Activities that Impact Fish Habitat

As part of the Council's Habitat Pilot Project, the Council is continuing its work to improve the process of addressing anthropogenic (human) activities that impact fish habitat.

The Ecosystem and Ocean Planning Committee met in August 2015 to consider developing policy documents on anthropogenic activities that impact fish habitat. The Committee recommended developing policy documents focused on reducing fishing and non-fishing habitat impacts through separate development tracks. In September 2015, the Ecosystem and Ocean Planning Advisory Panel was convened to provide additional input on the non-fishing policy documents, including the development of a water quality section to be included with the coastal development policies. The development of policies on fishing impacts will continue once the non-fishing policies have been completed.

The non-fishing policy documents are enclosed for consideration and possible approval by the Council. The associated background documents that were prepared for the Council by the Fisheries Leadership and Sustainability Forum, are available on the Council website at: <http://www.mafmc.org/habitat/>

### Council Policy Documents on Non-Fishing Activities

1. Preamble
2. General
3. Marine Transport
4. Coastal Development
5. Liquefied Natural Gas
6. Offshore Oil
7. Wind Energy

### Other Items

8. Description of the process to improve communication on activities that impact fish habitat.

## **Council Fish Habitat Policies - Preamble**

Fish require healthy surroundings to survive and reproduce. A fish's habitat is a combination of physical factors, such as water temperature and bottom type, chemical factors such as oxygen levels and dissolved minerals, and biological and ecological characteristics such as prey and forage. Many species of fish have different habitat requirements for each life stage (i.e., egg, larvae, juvenile, adult). Habitat plays an essential role in the reproduction, growth, and sustainability of commercial and recreational fisheries and is essential to the biodiversity of marine and coastal ecosystems.

Human activities have significantly altered coastal and marine habitat over time. A variety of factors have contributed to the degradation or destruction of fish habitat, including coastal development, land-based pollution, fishing gear impacts, invasive species, dams and other blockages that restrict the movement of migratory fish species, and changes in the volume and delivery of freshwater to estuaries. In addition, climate change and growing demands for new energy sources have the potential to cause wide-ranging impacts on fish habitat. Given the continued population growth and development in coastal areas, these pressures on coastal and marine habitats are expected to increase in the years to come. Also, it is important to note that once habitat is damaged or lost, it is difficult and costly to recover.

The Mid-Atlantic Fishery Management Council is responsible for the management of marine fisheries in the Exclusive Economic Zone. The Council develops management plans and management measures for fourteen species of fish and shellfish. Most of the Council's managed resources have strong nearshore and coastal linkages to habitat, and in many cases the nearshore and offshore environment for these managed resources is a continuum.

Fish stocks cannot be managed sustainably in the absence of a healthy marine ecosystem, and healthy fish habitat, which starts inland with freshwater stream and river inputs, and continues offshore to the outer continental shelf of the US Atlantic. Anthropogenic activities and projects within the Greater Atlantic region (i.e. Northeast region, including the Mid-Atlantic and New England waters) have the potential to impact the productivity of the Council's managed fishery resources<sup>1</sup>, other federally-managed fish resources<sup>2</sup>, state-

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<sup>1</sup> Mid-Atlantic Council managed stocks: Atlantic mackerel, black sea bass, Atlantic bluefish, butterfish, shortfin squid (*Illlex*), longfin squid (*Loligo*), ocean quahogs, scup, spiny dogfish, summer flounder, Atlantic surfclams, golden tilefish, and monkfish.

<sup>2</sup> Other Federally-managed fish stocks: American lobster, Atlantic herring, Atlantic salmon, Atlantic sea scallop, Atlantic sturgeon, shortnose sturgeon, red crab, river herrings, skates, whiting and other hakes, cod, haddock, yellowtail flounder, pollock, plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, redfish, Atlantic wolffish, and ocean pout (<http://www.nefmc.org>), highly migratory species such as tunas, sharks, swordfishes, and billfishes (<http://www.nmfs.noaa.gov/sfa/hms/>), as well as other southern Atlantic fish species (<http://www.safmc.net>).

managed fish resources<sup>3</sup>, and the forage on which these fish rely. In addition, many of these activities have the potential to impact species protected under the Endangered Species Act and Marine Mammal Protection Act<sup>4</sup>, such as marine mammals and sea turtles.

The Council is limited in its ability to address threats to fish habitat, as its authority is largely restricted to the development of fishing regulations. However, the Council is involved in a range of habitat management and conservation initiatives through collaboration with its partners in the Greater Atlantic region.

In an effort to more effectively address anthropogenic (human) activities that threaten fish habitat, the Council has developed a series of policies that articulate its positions on the following issues: wind energy, offshore oil, marine transport, liquefied natural gas (LNG), and coastal development. By clearly communicating its positions on anthropogenic activities, the Council can more effectively comment and collaborate with partners and other agencies to address these threats.

The following principles guided the development of these policies:

1. An ecosystem approach, which considers the long-term health of essential habitat and its linkages within the ecosystem, is fundamental to the sustainable use of all marine resources.
2. It is imperative that the impacts of anthropogenic activities on sensitive habitats be considered when evaluating the appropriateness of human uses that impact marine and coastal areas.
3. Not all areas require equal levels of protection, since they are not equally ecologically or biologically significant or vulnerable to particular stressors.

Given the extent of anthropogenic activities in the Greater Atlantic region, it is important that the Council articulate its position on these issues. The numerous activities occurring in the coastal zone result in compounding, cumulative impacts on the environment which must be addressed to the extent possible if fisheries productivity and ecosystem function are to be maintained. Actions and policies that protect and restore fish habitat and marine and estuarine ecosystem function, are clearly an investment in the health of our coastal communities, and the fisheries on which they depend.

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<sup>3</sup> For lists of state managed fish stocks, see <http://www.asafc.org>.

<sup>4</sup> For lists of protected resources, see: <http://www.nmfs.noaa.gov/pr/species/index.htm>.

## **General Council Policies on Non-Fishing Activities and Projects**

*The following sections highlight Council policies that apply to most or all of the non-fishing activities that are occurring in the Greater Atlantic region.*

### **Engagement and Communication**

Engage Early - Early consultation by project developers with agencies (such as NOAA Fisheries) is critical to support the planning needed for monitoring and data collection.

Early Communication - Early communication between project developers and the fishing industry(s) and other stakeholders is a critical component of conflict avoidance and mitigation. A communications strategy about the project should be developed to engage the full range of regional fishing interests.

Sustained Communication – There should be sustained communication about project activities with stakeholders (i.e., vessel presence, activities, etc.).

Coexistence - The coexistence of development activities and fishing activities should be a requirement for project approval.

### **Monitoring and Research**

Before and After Environmental Monitoring - Environmental monitoring should be conducted in project areas before, during, and after project development and operations to understand the potential and realized impacts on habitat. An environmental baseline should be established before construction begins, along with a timeline that specifies when and what type of information will be collected.

Before and After Economic Monitoring - Economic baselines should be established prior to project development to evaluate a project's projected and actual impacts to fisheries, fisheries infrastructure, and fishing communities.

Monitoring Data - Project monitoring information should be reviewed for any unanticipated adverse impacts to allow remediation or mitigation measures to be considered. Monitoring data should be archived in NOAA's National Centers for Environmental Information (NCEI), regional portals, or other sites such as: <https://www.ncei.noaa.gov/> or <http://midatlanticocean.org/data-portal/>

Research - Increasing investment in research and monitoring is needed to provide a better understanding of expected impacts and support improvements in the consultation process. Dedicated funding to support habitat research should be prioritized.

Sound – Information is lacking on background ocean sound levels, how they are changing over time with increased development and maritime activities, and what the impact is on

marine life. The Council supports investment in research to understand the impacts of both acute and chronic sounds on marine life.

### **Buffers, Restrictions, Activity and Exclusion Zones**

Timing Restrictions - Project activities (exploration, construction, and operations) should be timed to occur when the fewest species, least vulnerable species, and least vulnerable life stages are present. Appropriate work windows should be established based on multi-season pre-construction biological sampling in the affected area.

Activities Restrictions – Project activities should not occur in sensitive areas, including those sensitive areas already prohibited to fishing by the Council.

Buffers - If activities with significant adverse impacts on sensitive habitat, species, or life stages are to be conducted, protective buffers should be used to prevent adverse effects.

Exclusion Zones - Guidelines should be established that specify when, where, and how marine exclusion zones can be established for project development and activities. Project developers should engage early with the Council and other site user groups to address access issues (e.g., project/operations exclusion zones), such as maritime passage, fishing, and other associated hazards (e.g., homeland security).

Effective Footprint – Projects should consider both the structural and effective footprint when evaluating habitat impacts. For all human activities and projects, the immediate structural footprint as well as the effective footprint of the activity should be considered. For example, wind facilities have a footprint associated with the actual wind turbine structures, moreover, they have an effective footprint in that they may influence currents, which can influence bottom structure (sand) through scouring and pelagic water column habitat important for eggs of squid and other species. Similarly, beyond the structural footprint of liquefied natural gas (LNG) facilities, the plants may have security buffers implemented by the Department of Homeland Security, which could limit navigation and access the fishing grounds. The effective footprint of a particular activity or project may be significantly larger than the structural footprint, thus the impact to habitat and fishing grounds may be much larger than when just considering the structural footprint of the project or activity.

Activity Corridors – Coastal and ocean development activities should be restricted to certain corridors.

### **Decommissioning**

Decommissioning of Projects/Platforms - Decommissioning options for platforms such as those used in liquefied natural gas, oil, and wind production should be developed during project planning. However, projects should re-consult with the appropriate agencies before decommissioning to provide an opportunity for consideration of best

decommissioning methods because original decommissioning options may be decades old and may not make use of best available technologies. It also allows for consideration of platforms to remain for alternative uses (e.g., oil platforms decommissioned for use as artificial reefs in the Gulf of Mexico).

### **Water Quality and Ballast Water**

Contaminants - The Council supports practices which reduce inputs of contaminants that impact water quality and can have major deleterious effects on fishery species that utilize estuaries or coastal habitats. Chronic exposure to contaminants can cause bioaccumulation in fish species and compound impacts throughout food webs. More detailed policies on this subject can be found in the Coastal Development Policy Document.

Eutrophication - Eutrophication of estuaries and nearshore waters in the Mid-Atlantic adversely impacts fisheries and essential fish habitat. Thus the Council supports policies, projects, and investments that reduce point and non-point sources of eutrophication. More detailed policies on this subject can be found in the Coastal Development Policy Document.

Ocean Acidification - The Council supports policies, practices, and investments in research to address issues related to carbon emissions and associated ocean acidification. More detailed policies on this subject can be found in the Coastal Development Policy Document.

Ballast Water - Best management practices for ballast water exchange and/or treatment should be employed to reduce the risk of ecological impacts from invasive aquatic species.

## **Council Policy on Marine Transport**

**Policy Goals:** *The Council supports marine transport practices which minimize environmental impacts and address issues related to coastal resiliency. In addition, the Council supports practices for ports and marinas that reduce the input of nutrients and contaminants into the aquatic environment. This policy applies to both non-fishing and fishing maritime vessels and infrastructure.*

### **General Policies**

1. Investments in port and marina infrastructure should include plans that will increase coastal resiliency and resiliency of infrastructure.
2. Where appropriate, smaller marine transport projects should consider opportunities to provide the public with fishing access.<sup>1</sup>
3. Activities that require dredging should use best practices for siting and should be designed to avoid the need for frequent maintenance dredging.
4. Sources of excessive sedimentation in the watershed should be identified, and best management practices should be implemented to ensure that actions are taken to reduce or curtail those load sources.
5. Developers should consider expanding existing ports with deep water facilities.
6. Projects which propose the expansion and/or alteration of existing ports/facilities should evaluate other nearby ports/facilities to examine the feasibility of using those in lieu of new construction and dredging.
7. Dredging should not be conducted in areas with sensitive fish habitat such as shellfish beds, fish spawning and/or nursery habitat areas, submerged aquatic vegetation (SAV), or hard/structured habitat.
8. The placement of maritime infrastructure in or adjacent to sensitive fish habitat should be avoided.
9. Seasonal restrictions and spatial buffers should be used during dredging to reduce adverse impacts on fish spawning, egg development, young-of-year development, and migration periods, and to avoid secondary impacts to sensitive fish habitat.
10. Best management practices and equipment (e.g., adjust lift speeds, use environmental bucket or hydraulic dredge, avoid barge overflow) should be used to

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<sup>1</sup> Contact the state's natural resource management agency to discuss options/opportunities during project development.

minimize turbidity plumes to reduce adverse impacts of suspended sediments on adjacent benthic resources.

11. The effects of increased boat traffic to an area should be considered when assessing a new dredging project or expanding existing channels. Increases in the volume of boat traffic may require more frequent maintenance dredging, which could produce secondary impacts, such as shoreline erosion, sedimentation, and turbidity.
12. Shade produced by over-water structures can alter aquatic/benthic ecosystems. Guidelines or requirements (state/federal) for over-water structures should be employed to minimize the shade footprint created by these structures. Consideration should be given to the impacts of a structure's height, width, construction materials, and orientation.
13. Testing should be conducted prior to dredging and/or disposal of dredged material to ensure that contaminant levels of sediments do not exceed US EPA or state requirements and standards.
14. Beneficial uses for uncontaminated sediments should be considered when practicable and feasible. Priority should be given to beneficial uses of material that contribute to fish habitat restoration and enhancement, landscape ecology approaches, and includes pre- and post-disposal surveys.

### ***Policies on Operation and Maintenance of Ports and Marinas***

1. Management plans for non-point source (NPS) pollution and stormwater management should be integrated into the maintenance and operation of ports and marinas. Management practices should be tailored to the specific issues of each port or marina.
2. Encourage marinas to participate in their state's clean marina initiatives<sup>2</sup>.
3. Marinas should consider using Leadership in Energy and Environmental Design (LEED)<sup>3</sup> certification for construction and renovation of buildings and over-water structures.
4. Adequate gas spill response plans and protocols<sup>4</sup> should be in place for gas production and transportation facilities. These plans should:
  - a. Include the identification of sensitive fish habitat.

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<sup>2</sup> Most state have voluntary initiatives that encourage marinas to adopt environment-friendly business practices to reduce pollution in local waterbodies. For example: <http://www.njcleanmarina.org/> and <http://dnr2.maryland.gov/Boating/Pages/cleanmarina/home.aspx>.

<sup>3</sup> For more details, see <http://leed.usgbc.org/leed.html>.

<sup>4</sup> Consistent with the US Coast Guard, US Environmental Protection Agency, Occupational Safety & Health Administration/HAZMAT, and other requirements.

- b. Include methods to track the movement of spills.
  - c. Ensure adequate response equipment is immediately available.
  - d. Allow researchers to have timely access to impacted areas, as needed.
5. Oil-absorbing materials should be used in the bilge areas of all boats with inboard engines. These materials should be properly disposed of to limit the entry of solid and contaminated waste into surface waters.
  6. Facilities should provide a containment and filtering/treatment system for vessel wash down wastewater.
  7. Pump-out facilities and on-shore restrooms should be used at marinas and ports to reduce the release of sewage into surface waters.
  8. The disposal of fish waste or other nutrient-laden material in marina or port basins should be discouraged through the use of public education, signage, and by providing alternate fish waste management practices.
  9. The Council encourages the removal of unnecessary impervious surfaces surrounding port and marina facilities and maintenance of a buffer zone between the aquatic zone and upland facilities.
  10. Marinas should have designated, enclosed work areas boat maintenance activities (e.g., painting, engine repair) and should provide appropriate storage, transfer, containment, and disposal facilities for harmful material (e.g., solvents, antifreeze, and paints), to prevent toxic contaminants from reaching the aquatic environment.
  11. Concrete, untreated wood, or steel dock materials should be used to avoid the leaching of contaminants associated with wood preservatives.
  12. The Council encourages use of anchoring techniques and mooring designs that avoid scouring the bottom habitat from anchor chains. For example, anchors that do not require chains (e.g., helical anchors) or moorings that use subsurface floats to prevent anchor chains from dragging the bottom are some designs that should be considered.

## **Council Policy on Coastal Development**

***Policy Goal:*** *The Council supports policies, projects, and investments which will stop and reverse the steady and ongoing deterioration of critical riverine, estuarine, and nearshore fish habitats caused by coastal development in the Mid-Atlantic.*

### ***General Policies***

1. Coastal development poses an ongoing and significant threat to the marine ecosystem and the sustainability of Mid-Atlantic fisheries.
2. Federal agencies, including the National Oceanographic and Atmospheric Administration (NOAA), Environmental Protection Agency (EPA), and Army Corps of Engineers (ACE), should be aligned in their support of practices that improve water quality for both people and nature.
3. Developers and regulators should consider the cumulative impacts of development practices and projects on the environment and fisheries habitat and resources.

### ***Policies on Water Quality (including Eutrophication, Toxic Contaminants, Ocean Acidification, and Water Physics)***

#### **Eutrophication**

1. The Council supports policies, projects, and investments that reduce point and non-point sources of nutrient inputs and sediment to the aquatic environment.
2. The Council opposes land use practices and other activities that exacerbate eutrophication, and supports practices to address impervious surfaces issues which prevent rainwater infiltration and natural groundwater recharge.
3. Antiquated and improperly sited sewage treatment systems and outfalls should be upgraded and modified, and sewage should be treated to standards that are appropriate for the area.
4. Sewage treatment facilities should plan and prepare for forecasted extreme weather events. Flooding events can damage critical infrastructure like sewer and solid waste systems, especially in systems which transport both stormwater and wastewater for treatment, triggering sewage overflows that spread into local waters.
5. Practices should be employed that reduce over-reliance on septic systems that can contaminate the groundwater that feeds to rivers, estuaries, and nearshore waters.
6. Practices which result in the overuse of fertilizers or do not adequately address animal waste in agricultural practices should be avoided.

7. Wetlands and sensitive habitats which serve as depositories for a large amount of organic matter and cycling of nutrients within the ecosystem, such as tidal marshes, seagrass beds, and shellfish beds, should be protected and restored.

#### Toxic Contaminants

8. The Council supports practices which reduce inputs of contaminants (toxic chemicals) into water systems. Contaminants can have deleterious effects on fish that utilize estuaries or coastal habitats, and chronic exposure can lead to bioaccumulation in species and compound impacts throughout food webs.
9. The use of contaminants which can adversely affect the aquatic environment/marine biota should be below impact levels.
10. The use of antifouling biocides (e.g., aluminum, copper, chlorine compounds) should be avoided; less damaging antifouling alternatives should be implemented to avoid the leaching of these contaminants into the environment.
11. The Council supports studies to determine the impacts on fish from exposure to toxic contaminants of emerging concern (e.g., endocrine disrupting chemicals).

#### Aquatic Acidification

12. The Council supports policies, practices, and investments in research to address issues related to carbon dioxide emissions and associated aquatic acidification.
13. Research to understand the impact of acidification on marine ecosystems should be prioritized.
14. The Council supports practices that address eutrophication in the aquatic environment because excess nitrogen and phosphorus in coastal waters and estuaries (eutrophication) contribute to elevated carbon dioxide levels and acidification.

#### Water Physics

15. Many rivers and streams, wetlands, and estuaries have been degraded by the diversion of water for other uses, such as agriculture and consumption. As such, consideration should be given to restoring the natural hydrology of our rivers and streams and maintaining flow levels that feed into wetlands and estuaries, to the extent possible.

### ***Policies on Water-Dependent Coastal Development***

1. Water-dependent coastal development activities, such as marinas, ports, docks, and bridges, should not be placed in sensitive benthic habitat such as shellfish beds, fish spawning and/or nursery habitat areas, submerged aquatic vegetation (SAV), or hard/structured habitat.
2. Coastal upland buffers should be preserved between buildings/infrastructure and wetlands and sand dunes to allow for the inland migration of habitats as sea levels rise.
3. Preference should be given to the use of softer or “living” shoreline stabilization methods for coastal development, which can offer an alternative form of erosion control, with less severe habitat impacts than “hard” shoreline stabilization methods (e.g., concrete bulkheads and seawalls, concrete or rock revetments).
4. Projects should consider efforts to restore, create, and enhance fishery habitat to offset adverse impacts of coastal development (e.g., use soft/living shoreline methods to provide fish nursery habitats and marsh areas; remove barriers to natural fish passage).
5. The Council supports the removal or modification of water control barriers (such as dams, culverts, and banks) which modify natural hydrology and/or restrict diadromous fish movement and passage through rivers and estuaries. The installation of new water control barriers, which may constrain fish passage or alter hydrology, should be avoided.
6. The Council supports the use of seasonal restrictions and spatial buffers on coastal development activities to limit negative impacts during fish spawning, egg development, young-of-year development, and migration periods, and to avoid secondary impacts to sensitive habitat areas.

### ***Policies on Beach Nourishment***

1. Avoid sand mining in areas containing sensitive fish habitats (e.g., spawning and feeding sites, hard bottom, cobble/gravel substrate, shellfish beds).
2. Avoid mining sand from sandy ridges, lumps, shoals, and rises that are named on maps. The naming of these is often the result of the area being an important fishing ground.
3. Existing sand borrow sites should be used to the extent possible. Mining sand from new areas introduces additional impacts.
4. Conduct beach nourishment during the winter and early spring, when productivity for

benthic infauna is at a minimum.

5. Seasonal restrictions and spatial buffers on sand mining should be used to limit negative impacts during fish spawning, egg development, young-of-year development, and migration periods, and to avoid secondary impacts to sensitive habitat areas such as SAV.
6. Preserve, enhance, or create beach dune and native dune vegetation in order to provide natural beach habitat and reduce the need for nourishment.
7. Each beach nourishment activity should be treated as a new activity (i.e., subject to review and comment), including those identified under a programmatic environmental assessment or environmental impact statement.
8. Bathymetric and biological monitoring should be conducted before and after beach nourishment to assess recovery in beach borrow and nourishment areas.
9. The effect of noise from mining operations on the feeding, reproduction, and migratory behavior of marine mammals and finfish should be assessed.
10. The cost effectiveness and efficacy of investments in traditional beach nourishment projects should be evaluated and consider alternative investments such as non-structural responses and relocation of vulnerable infrastructure given projections of sea level rise and extreme weather events.

#### ***Policies on Wetland Dredging and Filling***

1. Activities which disrupt overall wetland function, such as dredging and filling, should be avoided to the extent practicable.
2. Dredged material should not be placed in wetlands or other sensitive fish habitats unless the placement is specifically designed to restore or to enhance the fishery habitat and ecological function of the wetland.
3. Fishery habitat functions/services should be identified and characterized in project areas prior to any dredge and fill activities.
4. Filling materials should be tested to ensure material meets or exceeds applicable state and/or federal water quality standards.
5. Existing and/or EPA-designated disposal sites should be used for the disposal of dredged materials, unless material placement intended for habitat restoration or enhancement.

## **Council Policy on Liquefied Natural Gas (LNG)**

***Policy Goal:*** *The Council supports practices for US energy development including LNG development and operations that will sustain the health of marine ecosystems and fishery resources while minimizing the impacts to the marine environment and fisheries.*

1. LNG facilities should utilize the best commercially available technology. Closed loop systems should be used to avoid impingement and entrainment of living marine resources and to reduce disruptions to the temperature and salinity of the aquatic environment.
2. Strategies should be implemented to diffuse heating or cooling in any effluent. Alteration of the temperature regimes of the receiving waters could cause a change in species assemblages and ecosystem function.
3. LNG facilities that use surface waters for regasification and engine cooling purposes should not be sited in areas of high biological productivity (e.g., estuaries).
4. To decrease the need for additional dredging, LNG developers should consider expanding existing LNG import and export facilities or repurposing existing industrial sites or ports which already have deep water facilities.
5. Preference should be given to the use of softer or “living” shoreline stabilization methods for construction of new onshore LNG infrastructure, which can offer an alternative form of erosion control, with less severe habitat impacts than “hard” shoreline stabilization methods (e.g., concrete bulkheads and seawalls, concrete or rock revetments).
6. LNG pipelines should not be constructed in areas with sensitive fish habitat such as shellfish beds, fish spawning and/or nursery habitat areas, submerged aquatic vegetation (SAV), or hard/structured habitat.
7. The best available technology should be utilized during pipeline installation to reduce potential impacts on the affected environment. This may include horizontal directional drilling to avoid impacts on sensitive fish habitat.
8. Some nearshore/onshore impacts can be avoided through the construction and use of offshore, deepwater LNG ports; however, the transportation of LNG from offshore terminals to onshore facilities may have other offshore impacts.
9. The siting, construction, and operation of LNG facilities should be conducted in a way that minimizes conflicts with other users groups, including recreational and commercial fisheries.
10. LNG facilities should not be placed in or adjacent to sensitive fish habitat.

11. Monitoring and leak detection systems should be installed at LNG production and transportation facilities.
12. LNG production and transportation facilities should develop and implement adequate LNG spill response plans and protocols<sup>1</sup>. These plans should:
  - a. Include the identification of sensitive marine habitat.
  - b. Include methods to track the movement of spills.
  - c. Ensure adequate response equipment is immediately available.
  - d. Allow researchers to have timely access to impacted areas, as needed.

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<sup>1</sup> Consistent with the US Coast Guard, US Environmental Protection Agency, Occupational Safety & Health Administration/HAZMAT, and other requirements.

## Council Policy on Offshore Oil

**Policy Goals:** *The Council supports policies for US energy development that will sustain the health of marine ecosystems and fishery resources while minimizing the risks to the marine environment and fisheries.*

1. Offshore oil development and operations is not consistent with the Council's vision for sustainable fisheries.
2. Renewable energy, if implemented in a manner which minimizes impacts on fish habitat and fisheries, may be more consistent with the Council's vision for sustainable fisheries.

*If offshore oil development moves forward:*

3. Best management practices should be implemented throughout offshore oil development and operations to avoid adverse impacts on fish habitat and conflicts with other users groups, including recreational and commercial fisheries.
4. Coordination should occur across regions to avoid conflicts between Highly Migratory Species fishing tournaments and oil development surveys (e.g., seismic testing).
5. Nearshore/onshore facilities associated with exploration and production (e.g., pipelines, access roads and bridges, and other structures) should not be constructed through areas with sensitive fish habitat such as shellfish beds, fish spawning and/or nursery habitat areas, submerged aquatic vegetation (SAV), or hard/structured habitat.
6. The need for additional dredging should be reduced by expanding or repurposing sites with existing deep water facilities, such as existing oil facilities and other industrial sites or ports.
7. Handling of oil during transportation should not occur in sensitive fish habitat.
8. Offshore oil development should not occur in sensitive habitats already prohibited to fishing, including discrete and broad areas on the Outer Continental Shelf identified for deep sea coral protection.
9. The Council encourages the use of the best commercially available technology, including horizontal directional drilling, to avoid potential impacts to sensitive habitat.
10. Monitoring and leak detection systems should be used at oil extraction, production, and transportation facilities to prevent oil from entering the environment.

11. The disposal of chemicals/contaminants used in petroleum development should be rigorously regulated. The discharge of chemicals, produced waters, drilling muds, and cuttings into marine and estuarine environments should be avoided. Frac-out plans should be developed, and produced waters should be reinjected into the oil formation, whenever possible. The physical and chemical effects of discharges on pelagic and benthic species and communities should be carefully monitored.
12. Potential adverse impacts to marine resources from oil spill clean-up operations should be weighed against the anticipated adverse effects of the oil spill itself. The use of chemical dispersants in nearshore areas where sensitive fish habitat is present should be avoided.
13. Oil production and transportation facilities should develop and implement adequate oil spill response plans and protocols<sup>1</sup>. These plans should:
  - a. Include the identification of sensitive marine habitat;
  - b. Include methods to track the movement of spills;
  - c. Ensure adequate response equipment is immediately available; and
  - d. Allow researchers to have timely access to impacted areas, as needed.
14. Short- and long-term impacts from sound during exploration, construction, and operation on the environment/ecosystem (including marine mammals, sea turtles, fish populations, and associated fisheries) should be evaluated and minimized using time and area restrictions (see General Council Policies).
15. The Council supports the development of a compensatory mitigation fund for damages that occur to the marine environment and fish habitat as well as damages to fishing vessels and their gear, as a result of offshore oil activities.

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<sup>1</sup> Consistent with the US Coast Guard, US Environmental Protection Agency, Occupational Safety & Health Administration/HAZMAT, and other requirements.

## Council Policy on Wind Energy

***Policy Goal:*** *The Council supports policies for US energy development including wind energy development and operations that will sustain the health of marine ecosystems and fisheries resources while minimizing the risks to the marine environment and fisheries.*

1. Best management practices<sup>1</sup> should be employed throughout all phases of offshore wind development and operations to avoid adverse impacts on fish habitat and to prevent conflicts with other users groups, including recreational and commercial fisheries.
2. Transmission cables should not be placed in areas with sensitive fish habitat such as shellfish beds, fish spawning and/or nursery habitat areas, submerged aquatic vegetation (SAV), or hard/structured habitat.
3. The best available technology should be utilized for transmission cable installation to reduce potential impacts on aquatic ecosystems. This may include horizontal directional drilling to avoid impacts to sensitive fish habitat.
4. Transmission cables should be buried to an adequate depth to reduce conflicts with other ocean uses, including fishing operations. Cables should be monitored after installation to ensure bathymetry is restored, and after large storm/meteorological events to ensure cables remain buried.
5. Project proposals should evaluate the expected impacts from scour and sedimentation beyond the footprint of the wind facilities. These should consider changes in currents. These scour impacts should be minimized to the extent possible.
6. Wind service platforms should implement adequate fuel spill response plans and protocols<sup>2</sup> for support vessels and platforms, and these plans should:
  - a. Include the identification of sensitive marine habitat;
  - b. Include methods to track the movement of spills;
  - c. Ensure adequate response equipment is immediately available; and
  - d. Allow researchers to have timely access to impacted areas, as needed.
7. Research and monitoring should be conducted to better understand the impacts of persistent electromagnetic fields around transmission cables on aquatic species.
8. Noise generated by wind facilities should be minimized, including sounds produced during surveys (e.g., survey vessels), construction (e.g., pile driving, hammers), and

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<sup>1</sup> Additional information on MAFMC wind best management practices can be found in: MAFMC, 2014. Proceedings from a workshop on Offshore Wind Best Management Practices. 16 p. Available from: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, or online at <http://www.mafmc.org>

<sup>2</sup> Consistent with the US Coast Guard, US Environmental Protection Agency, Occupational Safety & Health Administration/HAZMAT, and other requirements.

operations (e.g., spinning turbines). Research and monitoring should be initiated to evaluate the short- and long-term impacts of wind facility noise on the environment/ecosystem.

9. Safety and navigation threats (e.g., radar disruption, vessel collisions, and security threats) should be routinely monitored in areas where fishing operations are permitted near wind facilities. Safety issues should be efficiently identified and addressed using best management practices.<sup>3</sup>

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<sup>3</sup> Ecology and Environment, Inc. 2014. Development of Mitigation Measures to Address Potential Use Conflicts between Commercial Wind Energy Lessees/Grantees and Commercial Fishermen on the Atlantic Outer Continental Shelf Report on Best Management Practices and Mitigation Measures. A final report for the U.S. Department of the Interior, Bureau of Ocean Energy Management, Office of Renewal Energy Programs, Herndon, VA. OCS Study BOEM 2014 - 654. 98 pp. Available at: <http://www.boem.gov/OCS-Study-BOEM-2014-654/>.

**Improved Communication on Activities in the  
Greater Atlantic Region that May Impact Fish Habitat**

**December 7, 2015**

In order to improve the ability of the Mid-Atlantic Fishery Management Council (Council) to engage on non-fishing activities that may impact fish habitat, the Council and National Oceanographic and Atmospheric Administration Greater Atlantic Regional Fisheries Office (GARFO) Habitat Conservation Division (HCD) propose changes to the manner in which their staffs communicate on projects and activities occurring within the region. Improved communication between the Council and HCD staffs will:

- Allow the Council to stay informed on proposed projects that may impact fish habitat.
- Provide the Council the opportunity to provide fish habitat conservation recommendations on proposed projects, as necessary, in addition to those comments provided through the Essential Fish Habitat Consultation Process.

**Projects of Concern**

The HCD and Council staff will communicate about specific projects of concern via email. To the extent possible, these updates will be provided early in the project proposal process. The specific types of projects of concern for the Council include:

- Offshore Projects - All proposed projects (e.g., energy projects, cables, sand mining, etc.).
- Nearshore/estuarine Projects - Only large scale proposed projects, including any large transportation and port development projects.

In addition, HCD and Council staff will coordinate to ensure the Council receives periodic written and/or verbal updates on projects of concern from the HCD, and other habitat activities of interest occurring within the region (i.e., restoration, dam removal, etc.). These updates should be at least biannual, if possible.

**Project Tracking**

The HCD and Council staff will identify available tools to improve online tracking of projects within the region. These may include tools such as the Federal Infrastructure Permitting Dashboard, as well as other websites, contact and mailing lists. This information will be made available to the Council, and interested stakeholders/public through the Council website.