



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

M E M O R A N D U M

Date: September 24, 2021
To: Council
From: Chris Moore
Subject: Executive Director's Report

The following materials are enclosed for review during the Executive Director's Report at the October 2021 Council Meeting:

1. 2021 Planned Council Topics
2. Staff Memo: Update on the Thread Herring Exempted Fishing Permit
3. Staff Memo: Offshore Wind Updates
4. American Clean Power response to MAFMC letter to offshore wind developers (9/15/21)
5. National Marine Fisheries Service Budget Structure and Allocation Review (full report available [here](#))
6. CCC Letter to NMFS regarding Policy Directive 01-117 on the integration of Endangered Species Act (ESA) Section 7 with the MSA Processes (7/29/21)
7. NMFS response to the CCC letter on Policy Directive 01-117 (9/14/21)
8. Letter from GARFO to Sea Watch International regarding EFP request (9/9/21)
9. MAFMC letter to SERO regarding for-hire eVTR requirements (7/1/21)
10. SERO response to MAFMC and NEFMC eVTR letters (7/29/21)



2021 Planned Council Meeting Topics

Updated 9/21/21

October 5-6, 2021 Council Meeting (Webinar)

- 2022 Implementation Plan: Discuss Draft Deliverables (Executive Committee)
- HMS Diet Study Final Report: Review
- Chub Mackerel 2022 Specifications: Review
- Thread herring exempted fishing permit discussion
- 2022 Spiny Dogfish Specifications: Review
 - Spiny Dogfish Trip Limit Analyses: Review and Recommend Changes if Appropriate
- Private Tilefish Permitting/Reporting Evaluation
- ~~Surfclam and Ocean Quahog Species Separation Requirements: Review White Paper and Identify Next Steps (moved to December)~~
- Atlantic Mackerel Rebuilding: Discuss and provide guidance as appropriate
- North Atlantic Right Whales: Review and comment on scoping materials

December 13-16, 2021 Council Meeting (Annapolis, MD)

- 2022 Implementation Plan: Approve
- Recreational Reform Initiative: Update (Joint with Policy Board)
- Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment: Final Action (Joint with SFSBSB Board)
- Summer Flounder, Scup, and Black Sea Bass 2022 Recreational Management Measures: Approve (Joint with SFSBSB Board)
- Bluefish 2022 Recreational Management Measures: Approve (Joint with Bluefish Board)
- Biennial Review of 2020-2024 Research Priorities Document: Review and Approve
- EAFM Summer Flounder Management Strategy Evaluation: Update and Feedback (Joint with SFSBSB Board)
- ~~RSA Workshop Report: Review (Final workshop postponed until February 2022 due to COVID)~~
- Habitat Activities Update (including wind and aquaculture)
- Ocean City, MD Video Project: Review Preliminary Results (Recording and analysis will continue into early 2022)
- Aquaculture Policy Document and Aquaculture in the Mid-Atlantic Region Background Document: Review and Approve
- Climate Change Scenario Planning: Update
- Surfclam and Ocean Quahog Species Separation Requirements: Review White Paper and Identify Next Steps
- Sea turtle bycatch issue update



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Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: September 22, 2021
To: Chris Moore, Executive Director
From: Brandon Muffley and Julia Beaty, staff
Subject: Update on the Thread Herring exempted fishing permit

In June 2021, the Council discussed an exempted fishing permit (EFP) application submitted to the Greater Atlantic Regional Fisheries Office (GARFO) for an experimental purse seine fishery in federal waters for Atlantic thread herring. Thread herring are an ecosystem component species under the Council's Unmanaged Forage Omnibus Amendment and are subject to a 1,700 pound possession limit. The application requested the ability to catch up to 3,000 MT (6.6 million pounds) of thread herring in 2022 and would require an exemption to the Unmanaged Forage possession limit.

The Council requested the SSC review the application and provide input on scientific and biological considerations of the application and proposed data collection program. Given the role of thread herring as forage in the ecosystem and application to the Unmanaged Forage Amendment, the Council also requested the Ecosystem and Ocean Planning (EOP) Committee meet to review the feedback from the SSC and provide any additional recommendations regarding the application.

The SSC discussed the thread herring EFP application at their September 7–8, 2021 meeting and their comments and recommendations are provided in the September SSC meeting report behind the Committee Reports tab. The EOP Committee is scheduled to meet on Monday, October 4th to discuss the EFP application (meeting information can be found at:

<https://www.mafmc.org/council-events/2021/ecosystem-and-ocean-planning-committee-meeting>). A draft report or verbal summary of the Committee meeting will be provided to the Council at the October meeting.

The applicant may decide to revise and resubmit their EFP application to GARFO after considering the advice of the SSC and EOP Committee. Once GARFO publishes a Federal Register Notice with an associated public comment period, the Council may decide to submit a comment letter based on the SSC and EOP Committee recommendations. Staff will continue to keep the Council informed about the application and future Federal Register publication.

MEMORANDUM

Date: September 24, 2021
To: Chris Moore, Executive Director
From: Julia Beaty, staff
Subject: Offshore Wind Energy Updates

Since the last Council meeting in August 2021, the following developments related to offshore wind energy permitting and Council involvement have occurred:

- The Bureau of Ocean Energy Management (BOEM) published the Final Environmental Impact Statement for the South Fork Wind project, in the Massachusetts/Rhode Island Wind Energy Area and supplying power to New York. A Record of Decision regarding approval of the project is expected in the coming months.
- In August, BOEM and the Department of Energy (DOE) conducted informational meetings with fishing industry representatives and Council staff on regional coordination of offshore wind energy transmission. BOEM and DOE plan to continue dialog on this issue, but next steps have not yet been announced.
- BOEM held two comment periods related to planned wind energy leases in the New York Bight (see Council comment letters dated 8/13/21 and 9/20/21, below). BOEM may publish a final sale notice for these new leases later this year. Lease sales would occur following the publication of the final sale notice. The final notice will include lease stipulations, some of which may be relevant for fisheries. For example, BOEM may consider prescribed layouts and transit corridors as potential conditions of these leases.
- The Mid-Atlantic Council submitted the following comment letters to BOEM:
 - [MAFMC and NEFMC Letter to BOEM: New York Bight Proposed Sale Notice \(8/13/21\)](#)
 - [MAFMC Letter to BOEM: Notice of Intent to Prepare an EIS for the Kitty Hawk Wind Project \(8/30/21\)](#)
 - [MAMFC and NEFMC Letter to BOEM: Commercial and Research Wind Lease and Grant Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf of the New York Bight – Draft Environmental Assessment \(9/20/21\)](#)

- MAFMC Letter to BOEM: Notice of Intent to Prepare an EIS for the Sunrise Wind Project (in development, to be submitted 10/4/21)
- In July 2021, the Mid-Atlantic Council sent a letter to the developers of seven Mid-Atlantic offshore wind energy projects requesting suspension of survey work using sub-bottom profilers during September 15 - November 15, 2021 due to concerns about impacts on recreational fisheries. This letter can be found [here](#). On September 15, American Clean Power sent a letter on behalf of their members, including offshore wind project developers, stating that they could not accommodate this request. The letter is provided behind this tab.
- The SSC discussed offshore wind energy development during their September 2021 meeting. A summary of their discussion is provided behind the [Committee Reports tab](#).
- In 2018, the New England Council adopted the same [policy on wind energy](#) as the Mid-Atlantic Council. The New England Council is considering updating this policy to reflect lessons learned over the past few years. Mid-Atlantic Council staff are coordinating with New England Council staff on this effort. The New England Council may consider approving a revised wind energy policy in December 2021. The Mid-Atlantic Council may wish to consider making similar updates. More details on the recommended changes can be provided at a future Council meeting.
- It is anticipated that by the end of 2021, BOEM will publish notices of intent to prepare environmental impact statements for two more wind energy projects: Atlantic Shores off New Jersey and Mayflower Wind off Massachusetts/Rhode Island. The Council will likely write joint comment letters with the New England Council for these projects.
- Council staff continue to work with New England Council staff to maintain a website with updates on offshore wind energy development and to write joint comment letters for all relevant comment periods (see <https://www.mafmc.org/northeast-offshore-wind>).
- A more detailed update on offshore wind energy development, including a presentation by BOEM, is planned for the December Council meeting.



Christopher M. Moore, Ph.D.
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

September 15, 2021

Dear Dr. Moore:

American Clean Power (ACP), on behalf of our members, is providing this response to your letter dated July 15, 2021. ACP is a national renewable energy trade association that represents offshore wind developers and manufacturers in addition to solar, onshore wind, storage, and transmission companies. ACP and its offshore wind members have established a joint-developer Fisheries Working Group to coordinate and collaborate on activities and share information related to fishing and fisheries engagements across the U.S. Atlantic Outer Continental Shelf. We appreciate this letter from the Mid-Atlantic Fishery Management Council (the Council) and welcome further communication and future coordination between ACP, our members, and the Council and your members.

In your letter dated July 15, 2021, the Council requested that all offshore wind developers suspend the use of sub-bottom profilers during the period from September 15 through November 15, 2021 in order to avoid potential impacts to the recreational fishery for black sea bass (*Centropristis striata*).

ACP and the Mid-Atlantic leaseholders appreciate the Council reaching out on this concern. ACP, along with the offshore wind developers, are committed to successful co-existence with commercial and recreational marine fisheries and our industry is actively engaged in communication and coordination with regional and local fisheries. We appreciate your time considering this response and would further appreciate a discussion on how we can facilitate coordination and communication of 2022 survey activities with the Council in the coming weeks.

Given regulatory requirements of conducting sub-bottom profiling during the specified period, already-completed government pre-site evaluations, and research across multiple industries demonstrating the impacts by geophysical surveys to be minimal and temporary, we are unable to accommodate your request at this time. However, we welcome the opportunity to continue to collaborate with the fishing community and the Councils via one-on-one, project-specific interactions and through the regulatory process, and science entities such as Responsible Offshore Science Alliance (ROSA).



Regulatory Requirements, Site Characterization, and Geophysical Survey Impact Research across Industries

Geophysical surveys are essential activities necessary to support the responsible planning, development, and construction of critical infrastructure in the offshore environment, including offshore wind. These surveys are regularly conducted by many marine industries, federal and state government agencies, research/academic institutions, and the nation's military. The surveys are critical for understanding and characterizing the seafloor and subsurface, benthic habitats, identifying sand-sediment resources, and supporting a number of other activities in the U.S. Exclusive Economic Zone.

Geophysical surveys are required components of Site Assessment Plans and are regulated by the Bureau of Ocean Energy Management (BOEM) pursuant to 30 CFR Part 585, and through the attendant [regulatory guidelines](#)^[1]. Wind developers are required by BOEM to extensively characterize offshore wind lease areas and associated potential project areas, including export cable corridors outside of the lease areas. Due to this regulatory requirement and the required data to support agencies' review of projects, including Essential Fish Habitat consultation, developers must survey over multiple seasons to conform to the regulatory-driven data requirements. These surveys are planned, contracted, and permitted many months to a year in advance of actual activities. The operational timing considers protected species migration patterns, workable weather periods and fishing activities in order to conduct such activities safely and responsibly. Beyond site characterization, developers will be required to continue geophysical surveys to maintain and monitor the integrity of offshore installations during the construction, operations, and decommissioning cycles of the projects.

Governments, marine sectors (energy, maritime, technology), and academic institutions have extensively studied potential impacts to fish species from uses of all types of geophysical equipment, including sub-bottom profilers. Specific to the different types of geophysical equipment used in these surveys (including sub-bottom profilers), there have been considerable research, monitoring, and assessments conducted by governments, the marine sectors (energy, maritime, technology), and academic institutions to study potential impacts to fish species from their operation in the near and offshore environment. While not specific to black sea bass, these efforts regularly conclude that impacts to individual fish are temporary and that there is no conclusive evidence of population effects to fish species. Monitoring during surveys has shown that the effects continue to be temporary and short-term with fish returning to locations and resuming their species-dependent activities with no damage to habitats from acoustic energies emitted by these sources^[2]. In terms of effects of sub-bottom profiler frequencies and noise levels, there are currently no conclusive scientific data that these activities affect the feeding behavior of black sea bass.



Current Coordination and Collaboration between Individual Offshore Wind Projects and Fisheries

Offshore wind developers have adopted extensive methods to establish close coordination and communication with the fishing industry during geophysical surveys. ACP appreciates the Council's current efforts to amplify these communications, including consolidating Notice to Mariners published by each project on the Council's website. The intent of these efforts is to minimize interactions with fishermen actively fishing and to avoid interactions with deployed gear and fishing vessels. These efforts include a variety of direct communication and outreach tools such as communication between Fisheries Liaison Officers or Fisheries Representatives with fishermen active in survey areas, joint dock port hours, scouting efforts to map fixed fishing gear in survey areas, releasing notifications (Local Notice to Mariners, newsletters, websites, or other tools to announce locations of vessels and information to contact vessels), and direct communications between survey vessels with fishing vessels to promote safety at sea. Efforts taken by developers also include coordination with individual fishing entities, fishing associations, Fisheries Management Councils, state working groups, and others.

Fisheries activities and potential interactions with offshore survey operations, and the need for coordination may vary significantly across lease areas. Close coordination between the fishing industry and offshore survey operators at the lease level may consist of multiple points of coordination and communication, ranging from Local Notices to Mariners to direct coordination with Fisheries Liaisons and bridge-to-bridge communication with survey vessels, as appropriate. Fisheries Liaisons are positioned to facilitate this type of coordination in advance of survey and fishing operations. These methods have been used to achieve the successful coordination of commercial and recreational fishing operations and survey operations, and we suggest they can be employed to achieve the successful coordination of survey operations and fishing activity in the black sea bass fishery at a lease level as well. We believe that a coordinated approach at the project level to manage interactions between survey operations and fisheries will result in a successful and more closely coordinated outcome than a regional time of year restriction. We remain committed to achieving the successful coordination of our regulated site assessment activities with the commercial and recreational fishing communities and look forward to working closely with the agencies and the Councils as we work to complete our required geophysical surveys.

Collaboration between Offshore Wind and Fisheries in the Regulatory Process



We strongly support BOEM's coordination with the National Marine Fisheries Service and the U.S. Regional Fishery Management Councils to assess potential impacts of site characterization on current and future leases on fish and their habitats. In addition, our members are partners of the ROSA and supporting a number of other organizations to conduct scientific studies to further evaluate potential impacts of offshore wind activities on fish and their habitats. We also encourage the Mid-Atlantic Fishery Management Council consider collaborating with ROSA to identify opportunities for studies that could further our understanding for effects of offshore wind activities on fish and their habitats. ACP and our members are committed to understanding and minimizing impacts to fisheries, and our site characterization activities are subject to a robust regulatory review process. The Mid-Atlantic offshore wind developers are unable to accommodate the requested seasonal restriction on these previously approved, regulated survey activities. ACP and our members would be pleased to work closely with the Council if there are opportunities to further enhance coordination and communication regarding geophysical surveys conducted by our members. We appreciate your expressed interest in our site characterization activities and related concerns and would appreciate the opportunity to further discuss coordination for future survey activities. We look forward to a discussion on these topics and working to ensure that offshore wind and fisheries can coexist in the United States and transforming the U.S. power grid to a low-cost, reliable and renewable power system.

Sincerely,

Claire Richer

Claire Richer
American Clean Power
cricher@cleanpower.org
507-421-3137

Ruth Perry

Ruth Perry, Shell Renewables & Energy Solutions
Chair, ACP Fisheries Working Group
ruth.perry@shell.com
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^[1] UNITED STATES DEPARTMENT OF THE INTERIOR Bureau of Ocean Energy Management Office of Renewable Energy Programs May 27, 2020 Guidelines for Providing Geophysical, Geotechnical, and Geohazard Information Pursuant to 30 CFR Part 585

^[2] Agency Regulatory Requirements: <https://www.boem.gov/sites/default/files/documents/about-boem/COP%20Guidelines.pdf>; <https://www.boem.gov/sites/default/files/documents/about-boem/GandG%20Guidelines.pdf>; <https://www.boem.gov/sites/default/files/uploadedFiles/BOEM-Fishing%20FAQs.pdf>; and <https://www.boem.gov/sites/default/files/renewable-energy-program/Regulatory-Information/BOEM-Renewable-Benthic-Habitat-Guidelines.pdf>
Scientific Publications & Reports: <https://espis.boem.gov/final%20reports/5361.pdf>; <https://www.sciencedirect.com/science/article/abs/pii/S0141113618300904>; https://www.researchgate.net/profile/Rachel-Przeslawski/publication/325289437_Quantifying_fish_behaviour_and_commercial_catch_rates_in_relation_to_a_marine_seismic_survey/links/5b0e510aaca2725783f20715/Quantifying-fish-behaviour-and-commercial-catch-rates-in-relation-to-a-marine-seismic-survey.pdf; <https://tos.org/oceanography/article/introduction-to-the-special-issue-on-understanding-the-effects-of-offshore-wind-development-on-fisheries>; <https://dosits.org/animals/effects-of-sound/anthropogenic-sources/wind-turbine/>; <https://www.pnas.org/content/118/30/e2100869118>; <https://waves-vagues.dfo-mpo.gc.ca/Library/283727.pdf>; <https://www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis-with-appendices.pdf>

A Report by a Panel of the
NATIONAL ACADEMY OF PUBLIC ADMINISTRATION
for the National Marine Fisheries Service

National Marine Fisheries Service Budget Structure and Allocation Review



NATIONAL ACADEMY OF
PUBLIC ADMINISTRATION®

July 2021

The full report is available online:

[National Marine Fisheries Service Budget Structure
and Allocation Review Report](#)



Caribbean

Miguel Rolon
Executive Director
Marcos Hanke
Chair



Gulf of Mexico

Dr. Carrie Simmons
Executive Director
Dr. Thomas Frazer
Chair



Mid Atlantic

Dr. Christopher Moore
Executive Director
Mike Luisi
Chair



New England

Thomas Nies
Executive Director
Dr. John Quinn
Chair



North Pacific

David Witherell
Executive Director
Simon Kinneen
Chair



Pacific

Chuck Tracy
Executive Director
Marc Gorelnik
Chair



South Atlantic

John Carmichael
Executive Director
Melvin Bell
Chair



Western Pacific

Kitty Simonds
Executive Director
Taotasi Archie Soliai
Chair



July 29, 2021

Mr. Samuel D. Rauch III
Deputy Assistant Administrator for Regulatory Programs
NOAA Fisheries Directorate
1315 East-West Highway, 14th Floor
Silver Spring, MD 20910

Dear Sam:

The Council Coordination Committee (CCC) at its May 2021 meeting, discussed the implementation status of Policy Directive 01-117 on the Integration of Endangered Species Act (ESA) Section 7 with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) Processes (ESA Policy Directive).

For most of the Councils that have used the ESA Policy Directive, lack of communication and coordination on ESA consultations from National Marine Fisheries Service (NMFS) remains the primary issue, and Councils are typically not provided advanced review of Reasonable and Prudent Measures (RPMs) or Reasonable and Prudent Alternatives (RPAs) to provide input on their development before a draft or final Biological Opinion (BiOp) is available to the public. The ESA Policy Directive included a number of discretionary provisions for NMFS, which have effectively limited the Councils' involvement in the consultations, contrary to the intent of the Policy Directive. Although not necessarily aligned with the Policy Directive provisions, the Pacific Fishery Management Council (Pacific Council) has had a more cooperative response from NMFS, with the West Coast Regional Office typically initiating the request for Council's assistance, and utilizing the Council process to develop measures to address ESA issues in advance of or concurrent with ongoing consultations.

Based on these experiences, the CCC requested strengthening the relationship between NMFS and Councils on Endangered Species Act consultations for fisheries by:

- Updating the ESA Policy Directive to improve the process and timing for Council involvement in ESA consultations;
- Requiring more direct communication from Protected Resources Division to the Councils early in the process to ensure effective and meaningful Council involvement;
- Providing draft BiOps and draft RPMs/RPAs to Council staff for input in advance of these drafts being made available to the public; and
- Developing a process for NMFS to work with the Council on ESA issues through the normal Council process rather than through RPMs and RPAs resulting from consultations.

The CCC also requests NMFS coordinate with Council staff from each region for the interagency working group on ESA consultations for fisheries.

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The CCC would like to work with you and your staff to identify the best way forward to strengthen our relationship and update the ESA Policy Directive. The Western Pacific Council will be the lead Council on this matter. Please provide a point of contact from your office so we may initiate this effort.

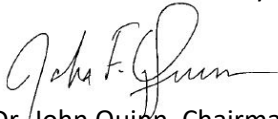
Sincerely,



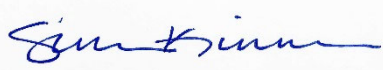
Pacific Fishery Management Council



Taotasi Archie Soliai, Chair
Western Pacific Fishery Management Council



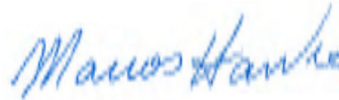
Dr. John Quinn, Chairman
New England Fishery Management Council



Simon Kinneen, Chair
North Pacific Fishery Management Council



Mike Luisi, Chair
Mid-Atlantic Fishery Management Council



Marcos Hanke, Chair
Caribbean Fishery Management Council



Melvin Bell, Chair
South Atlantic Fishery Management Council



Dr. Thomas Frazer, Chair
Gulf of Mexico Fishery Management Council

cc: Regional Fishery Management Council Executive Directors



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

September 14, 2021

Dear Council EDs,

Thank you for your July 29, 2021 letter regarding the implementation of Policy Directive 01-117, Integration of Endangered Species Act (ESA) Section 7 with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) Processes (the Policy Directive).

I am committed to working closely with the Fishery Management Councils to enhance our working relationship and improve communication where needed. As such, I have directed the Office of Sustainable Fisheries and the Office of Protected Resources to work with NOAA Fisheries regional staff to identify opportunities to improve existing processes for conducting ESA section 7 consultations on fishery management actions; part of their work will be to review the Policy Directive. I will take the contents of your letter into account when I review their recommendations.

However, I do want to address one suggestion at the outset which was to provide draft Biological Opinions "to Council staff for input in advance of these drafts being made available to the public." As you are aware, our current policy recognizes the unique interest that the Councils have in an ESA consultation on an MSA action. It also allows for the sharing of draft Biological Opinions with the Councils in certain situations. But it recognizes that such draft documents shared with the Council are public documents. After consulting with our General Counsel, there is no difference between sharing the document with the full Council and sharing the document with selected Council staff. In either instance, the document would be a publically available document and producible under the Freedom of Information Act. Accordingly, we cannot provide Council staff an advance draft of a draft Biological Opinion prior to those drafts being made available to the public.

I appreciate your commitment to work with me to identify the best way forward, and am happy to consider any specific ideas for improvements in the ESA section 7 process that you have.

Sincerely,

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I.1365850948 RAUCH.SAMUEL.D.III.1365850948
Date: 2021.09.14 11:12:12 -04'00'

Samuel D. Rauch, III
Deputy Assistant Administrator for Regulatory Programs
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

CC: Kelly Denit, Kimberly Damon-Randall, Adam Issenberg



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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930

September 9, 2021

Guy B. Simmons
Senior Vice President
Sea Watch International
8978 Glebe Park Drive
Easton, MD 21601

Dear Mr. Simmons:

As you are aware, we published a *Federal Register* notice soliciting public comments on your application for an exempted fishing permit (EFP) to conduct at-sea paralytic shellfish poisoning (PSP) testing in the Closed Area II scallop access area. After a review of the project proposal and the comments submitted from the New England Fishery Management Council, several issues must be addressed before proceeding with the EFP request at this time.

In the initial proposal and in conversation with my staff, you indicated that the purpose of this project was to conduct at-sea PSP testing in the Closed Area II scallop access area to explore potential expansion of the fishable area for at-sea certified testing vessels. The project proposal estimated a total of 416 trips for four surfclam vessels would be needed for the duration of the project. We are unclear why this requested level of effort is necessary to determine whether clams are free of PSP and safe for consumption. This level of effort is significantly higher than the amount of effort that is occurring annually in the open portion of Georges Bank (approximately 160 trips). In 2008, before the open area of Georges Bank was approved, we issued an EFP for a single vessel with a harvest of 176,000 bu of surfclams and 80,000 bu of ocean quahogs to determine if at-sea PSP testing was feasible in that area. This equates to approximately 60 full trips (32 bu per cage, 134 cages per trip). A level of effort aligned with the original EFP that was issued to open the area of Georges Bank would be more appropriate to address the stated purpose of the project.

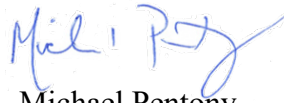
Additionally, there are other modifications to the project proposal that will ensure the project gathers data and information that would be useful when, and if, we consider the potential for expansion into Closed Area II. The New England Council expressed concerns with potential impacts of this project on scallops and groundfish species. The scallop access area in Closed Area II is set up as a rotational access area to minimize impacts on scallop beds and to ensure that younger scallops can grow to maturity. We recommend that any closed area access for surfclam vessels should correspond to the rotational access area(s) and schedule of the scallop fishery. Additionally, there is a closure of the scallop access area from August 15, 2021, through November 30, 2021, to protect spawning flatfish. We also suggest observer coverage for 5-10 percent of the proposed EFP trips to document species composition of the catch and bycatch from the clam dredge, in addition to the degree to which surfclams in the area test positive for



PSP. This coverage would help ensure the reliability of bycatch information on these trips and could be used when evaluating the potential for continued access to the area. This recommendation would represent observer coverage outside of the Northeast Fisheries Observer Program that the project would need to secure.

In order to move forward with your EFP request, please submitted a revised application that considers these suggestions. Please contact Laura Hansen (Laura.Hansen@noaa.gov) if you have any questions or would like to discuss the additional information we need to complete consideration of the EFP application.

Sincerely,



Michael Pentony
Regional Administrator

Cc: Thomas Nies, NEFMC Executive Director
Christopher Moore, MAFMC Executive Director



Mid-Atlantic Fishery Management Council

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Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

July 1, 2021

Andy Strelcheck
Acting Regional Administrator
Southeast Regional Office
National Marine Fisheries Service
263 13th Avenue South
St. Petersburg, FL 33701-5505

Dear Andy:

The Mid-Atlantic Council is concerned about the new reporting requirements related to the South Atlantic Fishery Management Council's (SAFMC) 2017 For-hire Reporting Amendment that were implemented by SERO beginning January 4, 2021. As you know, these new reporting requirements impacted not only SERO for-hire permit holders but also GARFO for-hire permit holders who were already required to report electronically. Although a single report via eTrips mobile can accommodate the requirements for each region, four additional reporting fields are required under the SERO permits including socioeconomic questions related to trip fees, fuel usage, and prices.

Mid-Atlantic Council members and stakeholders are concerned that the addition of these questions increases reporting burden and possibility of inaccurate data. For example, a captain who does not easily know the amount of fuel used or the price of fuel may file an inaccurate report to meet their reporting deadline. In addition, the lack of clarity regarding the utility of these questions as well as the lack of stakeholder support is undermining the support for electronic data collection and our relationship with these constituents.

According to the [Final Rule](#), economic data are being collected from charter vessels to enhance the ability of the South Atlantic Council and NMFS to estimate the economic impacts and values specific to charter vessels and support research efforts aimed at increasing net benefits to these stakeholders as well as the U.S. economy. Instead of a regulatory requirement, an alternative might be to make the answers to these questions voluntary combined with increased outreach to indicate their importance and promote participation. Completeness and accuracy of data are the foundations for gathering quality data and the Mid-Atlantic Council is concerned that these few additional fields will not only result in dubious information for those data elements but jeopardize the quality of the other data as well.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Moore".

Christopher M. Moore, Ph.D.
Executive Director

Cc: M. Luisi, P. Townsend, J. Carmichael, T. Nies, K. Coutre



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
<https://www.fisheries.noaa.gov/region/southeast>

07/29/2021

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Dear Chris and Thomas,

Thank you for your letters regarding the reporting requirements for the Southeast For-Hire Integrated Electronic Reporting Program (For-Hire Reporting Program). I appreciate the feedback on the additional southeast permit-specific data elements that were incorporated into the Atlantic Coastal Cooperative Statistic Program's (ACCSP) eTrips electronic reporting application. The regulations implemented for permit holders in the charter vessel/headboat Atlantic dolphin wahoo fishery, Atlantic coastal migratory pelagic fishery, and South Atlantic snapper grouper fishery, are requirements of the permit that apply regardless of where the permit holder fishes.

Regarding your concern over the collection of socioeconomic data, the Magnuson-Stevens Fishery Conservation Act (MSA) and the National Environmental Policy Act (NEPA) require NOAA Fisheries to assess the social and economic impacts of management actions. Although some economic data has been comprehensively collected by NOAA Fisheries for the commercial sector (price and revenue) and for headboats (fuel cost), the economic data that was collected from charter vessels historically was episodic and often based on small sample sizes. Further, that economic data was often outdated when socioeconomic analyses were needed for management and regulatory actions. Through the For-Hire Reporting Program, the detailed economic data entered by fishermen in real time through the additional questions added to the eTrips application will enhance the ability of NOAA Fisheries and the fishery management councils to understand potential impacts of proposed management and regulatory change(s) on the for-hire sector (e.g., changing bag limits, area closures, etc.). These data will also allow us to better monitor the economic health of the industry over time. In addition, the economic information will help fishery managers and scientists assess the value of the for-hire sector that will allow for economic recovery in the event of a fishery disaster. Fisheries economists will use these data in their cost-benefit and economic impact analyses for actions and amendments that propose regulatory changes. These data will always be used in a confidential manner. The information can also be used to inform quota allocation decisions, fisheries research, and disaster recovery damage assessments.



During the development of the For-hire Reporting Amendment, the South Atlantic Fishery Management Council (South Atlantic Council) identified all of the data elements to be included and determined that the collection of economic information was essential to the For-Hire Reporting Program.

The NOAA Fisheries' Southeast Regional Office (SERO) and Greater Atlantic Regional Fisheries Office (GARFO) staff identified approximately 300 permit holders that have both GARFO and SERO permits. These permit holders would be required to submit electronic logbook reports to both GARFO and SERO. However, in an effort to reduce possible duplication, ease the reporting burden on permit holders, and create a one-stop reporting platform, staffs from SERO, GARFO, and NOAA Fisheries' Highly Migratory Species Division (HMS) worked with the ACCSP staff to modify an existing reporting application (eTrips) to recognize these multi-region permit holders.

The eTrips application is able to determine which questions the permit holder should see and answer, based on the existing reporting requirements for SERO, GARFO and HMS. If the permit holder has a SERO permit, the eTrips form will include the required four socio-economic questions: fuel price per gallon, amount of fuel used, charter fee, and number of paying passengers. These questions *only apply* when a person has a SERO vessel permit. GARFO permit holders who do not have a SERO permit would not see these additional four socio-economic questions. In addition, eTrips also includes additional data element questions related to HMS (e.g., fight time, estimated weight, hook size, etc.) when any of six HMS species are landed (bluefin tuna, blue marlin, white marlin, roundscale spearfish, sailfish, and swordfish).

The For-Hire Reporting Program is a new data collection process for NOAA Fisheries SERO, and we know that modifications to the program may be needed to fine-tune the program in the future. However, the South Atlantic Council will need to review and recommend any changes to the structure of the program, including changes to the data elements. At their September 2021 meeting, the South Atlantic Council will receive an update on the For-Hire Reporting Program and plans to discuss the concerns you have outlined in your letters.

Sincerely,

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Andrew J. Strelcheck
Acting Regional Administrator