

NOAA
FISHERIES

NMFS Roles and Responsibilities for Offshore Wind

Sue Tuxbury
Gulf of Maine Task Force Meeting
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Our Mission

NOAA: Science, Service, Stewardship

NMFS: Responsible for the stewardship of the nation's ocean resources and their habitat



Roles and Responsibilities Related to Offshore Wind



NMFS role limited to statutory mandates provided by Congress

Advice, comments, and recommendations

- National Environmental Policy Act (NEPA)
- Magnuson-Stevens Fishery Conservation and Management Act (MSA)
- Fish and Wildlife Coordination Act (FWCA)

Biological Opinion

- Endangered Species Act (ESA)

Incidental Take Authorization

- Marine Mammal Protection Act (MMPA)

NEPA and Offshore Wind



Cooperating agency under NEPA

- Evaluate the Purpose and Need of the action to ensure it considers NOAA trust resources
- Evaluate whether the range of alternatives are developed to consider the impacts to NOAA trust resources
- Advise BOEM on the level of analysis to ensure that impacts to the fishing industry and marine trust resources are fully considered

Adopting agency under MMPA

- One Federal Decision requires NOAA adopt the lead agency EIS and sign a joint Record of Decision to satisfy our NEPA obligations for any MMPA authorizations

Magnuson-Stevens Fishery Conservation & Management Act

The MSA establishes a national program to:

- Promote domestic commercial and recreational fishing
- Promote the protection of habitats essential to fishery resources

NMFS's strategic goals in implementing the MSA include maximizing fishing opportunities while ensuring the sustainability of fisheries and fishing communities



MSA Sec. 305(b): Essential Fish Habitat

- Federal Agencies must consult with NMFS on any action or proposed action that may adversely affect Essential Fish Habitat (EFH)
- EFH is defined as waters and substrate necessary to fish for:
 - spawning
 - breeding
 - feeding, or
 - growth to maturity
- EFH is designated in Fishery Management Plans adopted by regional Fishery Management Councils



EFH Consultation



Federal action agency notifies NMFS of a proposed activity that may adversely affect EFH and submits an EFH Assessment

- NOAA determines the EFH Assessment is complete and initiates EFH consultation

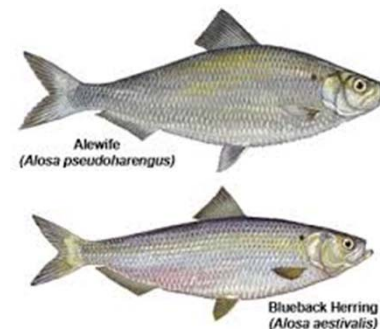
NMFS reviews the complete EFH Assessment

- Provides EFH Conservation Recommendations in 30-60 days
- Recommendations to avoid, minimize, or offset the adverse effect

Action agency responds in writing to NMFS within 30 days

- Describes measures to be implemented to address impacts, or explanation of why recommendations not followed

Fish and Wildlife Coordination Act



- Requires federal agencies to consult when a proposed action modifies any natural stream or body of water
- Federal agencies must consider effects on fish and wildlife and provide for improvement of these resources
- Consultation is done concurrently with the EFH consultation and no assessment is required
- NMFS evaluates effects and make recommendations
- Action agency response to recommendations not mandated



American Lobster
Homarus americanus

Endangered Species Act Relevant Provisions



Section 7(a)(2) – Interagency Cooperation

Each Federal agency shall, in consultation with the Secretary, ensure that any action authorized, funded, or carried out by such agency ('agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat

Section 9 – Take Prohibitions

It is unlawful for any person to take, possess, sell, deliver, carry, transport, or ship endangered species of fish or wildlife

ESA Section 7 Consultation



Informal and Formal consultations

Conducted at the request of the Lead Action Agency

- Lead action agency requests consultation and prepares a Biological Assessment (BA)
- NMFS responds to BA with a Biological Opinion (within 135 days)

The Biological Opinion is comprehensive:

- Covers entire life of project (construction/operation/decommissioning)
- All federal actions associated with a single project are considered
- May include Incidental Take Statement with mandatory Reasonable and Prudent Measures and Terms and Conditions

Marine Mammal Protection Act

- The MMPA prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters, and by U.S. citizens on the high seas
- Does allow for the issuance of incidental take authorizations



MMPA Incidental Take Authorization



- BOEM and NMFS must rely on same NEPA document
- Issued for activities that result in take of *any* marine mammal species (not just ESA-listed) incidental to otherwise lawful activity
- Two types of authorizations:

Incidental Harassment Authorization (IHA)

- valid for up to 1 year
- requires one 30-day public comment period

Letter of Authorization (LOA)

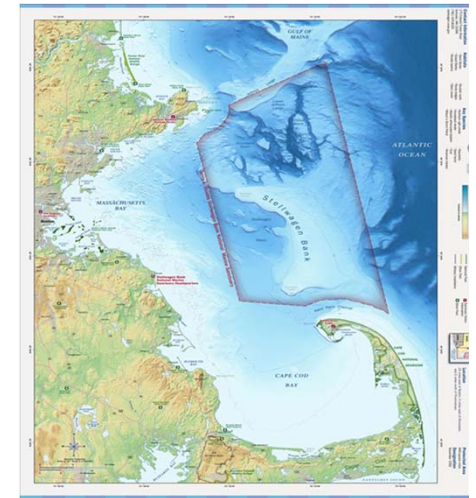
- valid for up to 5 years
- requires rulemaking on the part of NMFS and two 30-day public comment periods

National Marine Sanctuaries Act

Section 304(d)



- Requires interagency consultation on federal actions “likely to destroy, cause the loss of, or injure a sanctuary resource”
- “Actions” include direct federal actions and federal authorization of private activities through licenses, leases, or permits and actions external to sanctuary
- NOAA can provide recommended alternatives that eliminate, minimize or mitigate the injury – or that provide additional information on the agency action or its effects
- Action agency must provide a written response



NMFS Survey Activities in the Gulf of Maine Underpin the Agency's Scientific Advice



317 Years of Combined Survey Effort Support Fisheries that contribute \$14 Billion Annually to U.S. GDP

Survey	Year Started	Survey Design	Major Applications
Autumn Bottom Trawl Survey	1963	Random Stratified Design - North Carolina to Nova Scotia (bottom trawl)	abundance; length, age, sex, weight, diet, maturity samples, distribution, components of Ecosystem Monitoring survey
Spring Bottom Trawl Survey	1968	Random Stratified Design - North Carolina to Nova Scotia (bottom trawl)	abundance; length, age, sex, weight, diet, maturity samples, distribution, components of Ecosystem Monitoring survey
Scallop Survey	1979	Random Stratified Design (dredge); line transect (HabCam)	biomass, abundance, distribution, size and sex of sea scallops and other benthic fauna
Atlantic Surfclam and Ocean Quahog Surveys	1980	Random Stratified Design (hydraulic dredge)	biomass, abundance, distribution, size and sex of Atlantic surfclam and ocean quahog
Northern Shrimp Survey	1983	Random Stratified Design (commercial shrimp trawl)	biomass, abundance, length
Gulf of Maine Cooperative Bottom Longline Survey	2014	Randomly Stratified Design (bottom longline)	abundance, biomass, length, age, sex, weight, maturity samples, distribution, focused on hard-bottom habitat data
Ecosystem Monitoring Survey	1977	Random Stratified Design (linked to Trawl Survey Design); fixed stations embedded in design (plankton and oceanographic sampling)	Phyto/nkton, zooplankton, ichthyoplankton, carbonate chemistry, nutrients, marine mammals, sea birds
North Atlantic Right Whale Aerial Surveys	1998	Aerial line transects	Right Whale population estimates; dynamic area management
Marine mammal and sea turtle ship-based and aerial surveys	1991	Line transects for ship and aerial surveys. Plus opportunistic biological and physical oceanographic sampling from shipboard surveys	Abundance and spatial distribution of marine mammals, sea turtles, and sea birds

Thank you!

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