rule in the **Federal Register** and seek public comment on all aspects of the proposed revisions to North Pacific right whale critical habitat prior to issuing any final revision.

References Cited

The complete citations for the references used in this document are available (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: September 14, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–20794 Filed 9–25–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230921–0230]

RIN 0648–BM51

Fisheries of the Northeastern United States; Framework Adjustments to Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Northeast Skate Complex, and Atlantic Herring Fisheries; Southern New England Habitat Area of Particular Concern Designation

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes to implement the New England Fishery Management Council's Framework Adjustment that would identify a Habitat Area of Particular Concern offshore of Southern New England. This rule would adjust the following fishery management plans: Northeast Multispecies; Atlantic Sea Scallop; Monkfish; Northeast Skate Complex; and Atlantic Herring. The proposed Habitat Area of Particular Concern would be within and around wind lease areas in Southern New England, including Cox Ledge, to focus conservation recommendations on cod spawning habitats and complex benthic habitats that are known to serve important habitat functions to Council-managed fishery species.

DATES: Comments must be received by October 26, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0101, by the following method:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov,* and enter ''NOAA–NMFS–2023–0101'' in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). If you are unable to submit your comment through *https://www.regulations.gov,* contact Sabrina Pereira (see **FOR FURTHER INFORMATION CONTACT**).

Copies of the Southern New England Habitat Area of Particular Concern Framework and other supporting documents for this action are available upon request from Dr. Catherine O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: *https://d23h0vhsm26o6d.cloudfront.net/220822-SNE-HAPC-Framework.pdf.*

FOR FURTHER INFORMATION CONTACT: Sabrina Pereira, Marine Habitat Resource Specialist, email: *Sabrina.Pereira@noaa.gov;* phone: (978) 675–2178.

SUPPLEMENTARY INFORMATION:

Background

This action proposes the identification of a Habitat Area of Particular Concern (HAPC) in and around offshore wind lease areas in Southern New England (SNE), including Cox Ledge. The New England Fishery Management Council (Council) recommended the HAPC designation due to concerns about the potential adverse impact on essential fish habitat (EFH) from the development of offshore wind energy projects. The proposed designation would focus on important cod spawning grounds and areas of complex habitat that are known to serve important habitat functions to federally managed species within and adjacent to offshore wind development areas. Complex benthic habitat provides shelter for certain species during their early life history, refuge from predators, and feeding opportunities.

HAPCs highlight specific types or areas of habitat within EFH that may be particularly vulnerable to human impacts. HAPC designations should be based on one or more of the following criteria: (1) The importance of the ecological function provided by the habitat, including both the historical and current ecological function; (2) the extent to which the habitat is sensitive to human-induced environmental degradation; (3) whether, and to what extent, development activities are, or will be, stressing the habitat type; and (4) the rarity of the habitat type (50 CFR 600.815(a)(8)). As detailed below, if adopted, the HAPC designated by this action is based on all four of these attributes.

An area's status as an HAPC should lead to special attention regarding potential adverse effects on habitats within areas of particular concern from various activities (*e.g.,* fishing, offshore wind energy). An HAPC designation does not provide any specific habitat management measures, such as restrictions on gear types, harvest levels, fishing locations, offshore wind survey and construction activities, or other activities with adverse effects on habitat in the area.

Proposed Habitat Area of Concern Designation

This action proposes the Council's preferred alternative for the Southern New England HAPC designation, which would identify as an HAPC certain habitats in the area overlapping offshore wind lease sites in southern New England. The spatial extent of the HAPC is based on the footprint of the lease areas, buffered by approximately 10 km on all sides, combined with the footprint of the Cox Ledge spawning ground, which is based on recent evidence of cod spawning activity. Maps for the proposed HAPC designation are provided in the Council's document (see **ADDRESSES**).

The HAPC area would be designated EFH for the following species that occupy complex habitats within the footprint: Atlantic cod egg, larvae, juveniles, and adults; Atlantic herring eggs; Atlantic sea scallop eggs, juveniles, and adults; little skate juveniles and adults; monkfish juveniles and adults; ocean pout eggs, juveniles, and adults; red hake juveniles and

adults; winter flounder eggs, juveniles, and adults; and winter skate juveniles and adults.

Complex habitats are defined as hard bottom substrates, defined by the Coastal and Marine Ecological Classification Standard (CMECS) as Substrate Class Rock Substrate, and by the four Substrate Groups: Gravels; gravel mixes; gravelly; and shell. This CMECS modifier was developed by NMFS for habitat mapping recommendations, including both large-grained and small-grained hard habitats. Hard bottom substrates with epifauna or macroalgae cover are also defined as complex habitat.

Evidence of cod spawning activity at a site could be based on: Capture of ripe, running, or spent cod during fishery independent surveys; detections of acoustically tagged fish between November and April; detections of cod grunts in acoustic surveys; capture of cod larvae in ichthyoplankton surveys; and/or evidence of eggs in ichthyoplankton surveys (not species specific but indicative of spawning success).

Designation of this HAPC would place a focus on areas that are experiencing current development stresses. The designated area overlaps areas leased for renewable energy development. Some projects are already permitted, others are currently undergoing environmental review, and others are still within the site assessment phase. The proposed HAPC's spatial footprint closely aligns with the wind lease areas because these areas face differential levels of foreseeable on-going development-related threats compared to surrounding areas. The HAPC boundary includes a buffer of approximately 10 km beyond the leased areas, recognizing that some types of development activities can generate impacts at scales of tens of kilometers beyond the site of construction and operations. For example, acoustic impacts may extend kilometers from a pile driving site. Greater scrutiny would be given to activities within the HAPC designated area when data indicate that cod spawning and/or complex habitats occur within or near a project or activity footprint. An HAPC focused on these conservation objectives is consistent with the Council's Offshore Wind Energy Policy as well as prior offshore wind project specific comments provided by the Council in recent years.

The cod spawning habitats within the proposed HAPC meet all four of the HAPC criteria identified above, and the complex bottom habitats meet all criteria except for ''rarity.'' The proposed HAPC area is important for current ecological function because it includes spawning sites, juvenile settlement areas, and feeding areas for species with EFH in the area, including various cod species. Georges Bank Atlantic cod, which is in poor stock condition (*i.e.,* overfished and experiencing overfishing), spawns in the area, and SNE cod represent a genetically distinct sub-population. The subpopulation also contributes to the Georges Bank (GB) cod stock, thus, any impacts to SNE cod could also detrimentally impact the GB stock. With regard to sensitivity to anthropogenic stresses, cod spawning activities are particularly sensitive to adverse impacts from fishing and non-fishing activities, namely from offshore wind development (construction, operations, and maintenance), and complex habitats are susceptible to conversion and sedimentation. The proposed HAPC appears to meet the ''extent of current or future development stresses'' criterion because this area is facing an existing on-going development-related threat from offshore wind. Finally, regarding ''rarity,'' cod spawning habitats (based on acoustic environment, seafloor and water column setting) are rare with only one known grouping of active sites in Southern New England. Relative to complex habitat, these features are not considered rare (*i.e.,* spatially or temporally very limited).

The proposed HAPC is a non-regulatory designation. It is important to note that HAPC designations are intended to provide for increased attention when habitat protection measures are considered. HAPCs that are vulnerable to the potential impacts from anthropogenic activities warrant special attention when determining appropriate management measures to minimize, compensate, or mitigate those impacts.

Classification

Pursuant to section 305(d) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), this action is necessary to implement adjustments to fishery management plans as identified below and as adopted and proposed by the New England Fishery Management Council. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Northeast Multispecies Fishery Management Plan (FMP); Atlantic Sea Scallop FMP; Monkfish FMP; Northeast Skate Complex FMP; and Atlantic Herring FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment. In a previous action taken pursuant to section 304(b), the Council designed the FMP to specify the process for NMFS to take this action pursuant to MSA section 305(d), and this action puts in place administrative designations that are not implementing any associated management measures.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866, as amended by Executive Order 14094.

This proposed rule would not have a significant economic impact on a substantial number of small businesses pursuant to the Regulatory Flexibility Act (RFA). The HAPC designation does not impose any burdens on small businesses as there are no reporting requirements resulting from this action, and there are no operational requirements or regulations (*i.e.,* fishing operations or effort, prices/revenues, or fishery behavior) resulting from this action.

This action, if adopted, would not establish any new reporting or record-keeping requirements.

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–20938 Filed 9–25–23; 8:45 am]

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