
HABITAT HOTLINE ATLANTIC

Atlantic States Marine Fisheries Commission

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A New Plan for Artificial Reefs

Completion of National Artificial Reef Plan (as Amended): Guidelines for siting, construction, development, and assessment of artificial reefs



Sinking of the Oriskany

Source: Keith Mille

In February 2007, NOAA Fisheries Service, the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, and the Pacific States Marine Fisheries Commission collectively completed the *National Artificial Reef Plan (as Amended): Guidelines for siting, construction, development, and assessment of artificial reefs*. The original *National Artificial Reef Plan* was implemented in 1985. That Plan provided guidance on various aspects of artificial reef use, including types of construction materials and planning, siting, designing, and managing of artificial reefs. It also included information on research needs, liability, and mitigation. The revised Plan includes many of these same topics of interest, with updated regulations, guidelines, and descriptions. The revised document preface and executive summary follow:

PREFACE

The original National Artificial Reef Plan (Plan) was published in 1985. On page 1 of that document, in the Introduction, the last sentence of the first paragraph states, "The Plan is intended as a dynamic, working document that will change as new information becomes available." By letter to the National Marine Fisheries Service (NMFS) in the spring of 1996, the three interstate marine fisheries commissions requested that the NMFS authorize them to engage in revising the Plan. In December 1996, NMFS responded, providing the commissions the authority to develop draft recommendations for full plan revision. The commissions conducted a number of meetings which involved representatives from nearly every state artificial reef program, staff members from the three commissions, staff of the Minerals Management Service, and NMFS staff. During the course of this extensive series of meetings draft language was formulated and compiled into the document "Coastal Artificial Reef Planning Guide" which was then jointly published by the three commissions in December 1998, and submitted to NMFS as the basis for revision of the Plan.

The rationale for the interstate marine fisheries commissions to assume a lead role in revising the Plan was that state artificial reef management programs, which typically interact through the interstate marine fisheries commissions, have been the most visible in artificial reef development, and, therefore, their programs are more integrally tied to the guidance provided in the Plan. It was in the spirit of regional and national cooperation and

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coordination of activities that the state artificial reef programs worked in conjunction with the National Oceanic and Atmospheric Administration (NOAA) to apply their knowledge and experience in revising the Plan.



Source: Keith Millie

EXECUTIVE SUMMARY

The National Artificial Reef Plan (Plan) (NOAA Technical Memorandum, NMFS OF-6, 1985) is not meant to be a textbook or a policy manual, but rather a guide for artificial reef program managers and policy makers regarding how to access and understand the many facets of artificial reef development and use. The Plan was developed by the Secretary of Commerce

under direction of the National Fishing Enhancement Act of 1984 (Act). The Plan was designed to be a dynamic working document that would be updated as new information became available. Prior to 1984, many coastal states had well-developed programs directed at enhancing fisheries and fish habitat with artificial reef structures. Following approval of the Plan in 1985, these states were joined with others in implementing its recommendations. Many have pursued aggressive construction programs under guidance of the Plan and according to specific requirements in the Act. In addition, some state agencies have been less active in constructing reefs, but rather have made financial and technical resources available to local governments, private interests, and universities to encourage responsible reef development and research.

Approximately half of the coastal state natural resources agencies in the United States have approved plans for construction of artificial fish habitats based on the guidance of the Plan. In developing these plans and implementing individual state programs, these agencies have taken advantage of the coordination function for their respective interstate marine fisheries commissions to share experiences and technologies. The interstate commissions have served to assist coordination of information exchange and development of coastal and national policies for responsible stewardship of the fisheries affected by artificial reef development activities.

The Act designates the Secretaries of Commerce and the Army with lead responsibilities to encourage, regulate, and monitor development of artificial reefs in the navigable waters and waters overlying the outer continental shelf of the United States. The Secretary of Commerce is

responsible for the Plan, which provides guidance on reef development. Under the Act, the Secretary of the Army, when issuing a permit for artificial reefs, shall consult with and consider the views of appropriate local, state, and federal agencies and other interested parties; ensure that the provisions for siting, constructing, monitoring, and managing artificial reefs are consistent with established criteria and standards; and ensure that the title to the artificial reef construction material is unambiguous and that responsibility for maintenance and the financial ability to assume liability is clearly established. The coastal states have aggressively pursued implementation of the Act under the Army Corps of Engineers (Corps) regulatory oversight. The natural resource agencies in two-thirds of the coastal United States hold more than 90 percent of the permits for artificial reef structures. The Corps is a highly decentralized agency that has delegated to its district offices, the authority provided by Federal law for administering the regulatory program. The Act establishes the procedures to be followed by the Corps in issuing permits for artificial reefs. Given the discretion allowed by law, there is no inherent assurance that only responsible reef development will be permitted. Responsible state agencies have assisted the Corps and other affected agencies in keeping irresponsible activities to a minimum and preserving long-term benefits to associated fisheries and marine habitat.

This document follows the format of the 1985 Plan incorporating changes to original text in key areas. A few significant deviations from the format of the Plan of 1985 are contained in this report. The most significant occurs in the section dealing with materials.

Materials used to construct artificial reefs are under continuous examination and evaluation by reef developers and environmental regulators. This is especially true for those materials that were originally intended for another purpose. These materials are referred to throughout as "secondary use" materials. This document changes prior nomenclature for such materials previously referred to as "materials of opportunity." Currently, no federal agency provides any form of certification of material against established environmental standards. This document does not explore this issue in detail. Executive agencies will interpret and clarify such roles under existing statutes. Therefore, relevant statutes are cited in applicable sections.



Source: Ben Mostkoff

Several critical issues of national importance provide the focus for much of the debate regarding artificial reef activities. These include the permit programs of the Corps, materials criteria, liability, research and evaluation, site location, and the roles of affected federal agencies and the regional fishery management councils. Fishery management councils (FMCs) established under the Magnuson-Stevens Fishery Conservation and Management Act have additional responsibilities not addressed herein that may result from their role in conserving essential fish habitat.

One of the main areas of emphasis was to include language to reiterate the importance of artificial reefs as a fisheries management tool. The basic precept to employ reefs as management tools is for state natural resource agencies to be involved in all artificial reef construction in their waters, and also be consulted on artificial reef development in adjacent federal waters. Such governmental fisheries management agencies can demonstrate long-term commitment and responsibility to the resource and resource users. These agencies are critical to establishing and maintaining compatibility with fishery management objectives for affected species. The states also can demonstrate an ability to assume liability for the projected life of the structure not just for the duration of the permit.

There has been growing interest in the use of artificial reefs in mitigation projects. Although some mitigation projects have successfully incorporated artificial reef structures into project objectives, caution should be exercised in such instances. There is no general acceptance of the utility or effectiveness of artificial structures in mitigation projects.

Establishment of baseline evaluation and monitoring programs remains an issue. Recommendations for evaluation and monitoring should include assessments of physical attributes of the reef structure as well as biological attributes of species assemblages by life history stage, among others. Such assessments should be measured against the objectives established for building the reef and may require that such objectives be included in permits.

For more information, or a copy of the full electronic publication, please contact:

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ENERGY UPDATE

MINERALS MANAGEMENT SERVICE OCS ALTERNATIVE ENERGY DRAFT PROGRAMMATIC EIS COMMENTS AVAILABLE

Public comments on the Draft Programmatic Environmental Impact Statement (EIS) for Alternative Energy Development and Production and Alternate Use of Facilities on the U.S. Outer Continental Shelf (OCS) are now available for browsing or downloading at: <http://ocsenergy.anl.gov/draftcomments/index.cfm>. The Minerals Management Service (MMS) accepted comments on this EIS from March 16, 2007 through May 22, 2007.

Background

Section 388 of the Energy Policy Act of 2005 (EPA), Public Law 109-58 (H.R. 6), enacted August 8, 2005, gives the U.S. Department of the Interior (DOI) discretionary authority to grant leases, easements, or rights-of-way (ROWs) for activities on the OCS that produce or support production, transportation, or transmission of energy from sources other than oil and gas, and that are not otherwise authorized by other applicable law. The EPA also gives discretionary authority to the DOI to grant leases, easements, or ROWs for other OCS project activities that make alternate use of existing OCS facilities for "energy-related purposes or for other authorized marine-related purposes," to the extent that such activities are not otherwise authorized by other applicable law. This authority will be exercised by the MMS, a bureau of the DOI.

MMS is establishing a new program to oversee these new activities on the OCS. To apply the requirements of the National Environmental Policy Act (NEPA) to the new program and rules, MMS has prepared a draft Programmatic EIS. The Programmatic EIS analyzes the potential impacts associated with activities under the new program. Since the focus of this Programmatic EIS is on the program and rules, it is expected that subsequent NEPA documents prepared for site-specific alternate-energy-related use projects will tier off of the Final Programmatic EIS and the Record of Decision. The Programmatic EIS analyzes the proposed implementation of the OCS Alternative Energy and Alternate Use Program in areas not excluded by the EPA. The document also

identifies potential mitigation measures for OCS Alternative Energy and Alternate Use Program projects. The Programmatic EIS focuses on generic impacts from each industry sector on the basis of global knowledge and identifies key issues that subsequent, site-specific assessments should consider. Projections for industry activities are limited to those anticipated to be pursued within the next five to seven years. The Programmatic EIS focuses on the environmental, cultural, and socioeconomic impacts associated with different approaches to the establishment of a national alternative energy program.

What Are Alternative Energy and Alternate Use Projects?

The OCS Alternative Energy and Alternate Use Program projects include, but are not limited to, offshore wind, wave, ocean current, and solar energy capture technologies. In addition, the technology of generating hydrogen using the energy captured from one of the above alternative resources on the OCS and transporting the hydrogen to the shore is included among the OCS Alternative Energy and Alternate Use Program projects.

MMS also was given jurisdiction over other projects that make alternate use of existing oil and natural gas platforms in Federal waters. Alternate uses of existing facilities may include, but would not be limited to, offshore aquaculture, research, education, recreation, support for other offshore operations and facilities, and telecommunications. Although the EAct authorizes MMS to allow alternate uses of existing OCS facilities, MMS is not seeking authority over activities such as aquaculture. It is only seeking authority to allow platforms to be converted to alternate uses if the appropriate agency approves the underlying activity.

The Draft Programmatic EIS is available at: <http://ocsenergy.anl.gov/eis/guide/index.cfm>. The final version of the EIS will tentatively be completed in August 2007, with the Record of Decision in September 2007.

For more information about the Programmatic EIS and public involvement activities, visit the OCS Alternative Energy and Alternate Use Programmatic EIS Information Center at <http://ocsenergy.anl.gov>, or contact : ocsenergywebmaster@anl.gov.



Photo Credit: Lee Mecum

SPOTLIGHT ON CHINESE MITTEN CRABS

Mitten Crabs in the Eastern U.S.

Live Chinese mitten crabs (*Eriocheir sinensis*) have been caught in crab pots in Chesapeake Bay (2005-2007) and Delaware Bay (May 2007). These are the first confirmed reports for the eastern United States. As of June 1, 2007, there had been seven crabs documented. Researchers do not yet know whether the crab has established reproductive populations in these estuaries or spread to other locations along the eastern U.S.

The Chinese mitten crab is native to East Asia, and is a

potential invasive that could have negative ecological impacts. Mitten crabs are already established invaders in Europe and on the West Coast of the United States. The crab is listed as Injurious Wildlife under the Federal Lacey Act, which makes it illegal in the U.S. to import, export, or conduct interstate commerce of mitten crabs without a permit.

Life History

The Chinese mitten crab occurs in both freshwater and salt water. It is catadromous, migrating from freshwater rivers and tributaries to reproduce in salt water. Young crabs spend two to five years in freshwater tributaries and can extend miles upstream of bays and estuaries. Mature male and female crabs migrate downstream to mate and spawn in saltwater estuaries. Chinese mitten crabs burrow into banks and levees along estuaries and are able to leave the water to walk around obstacles while migrating.

To determine the status, abundance, and distribution of this species along the eastern U.S., the Smithsonian Environmental Research Center has established a Mitten Crab Network. The Network began as a partnership among several state, federal, and research organizations, with an initial focus on Chesapeake and Delaware Bays.

AROUND THE COAST: WORKING WATERFRONTS

Fishermen forced off the docks in Alabama. Public paths to the beach blocked in California. Commercial waterfronts eclipsed by private residences in Maine. Marinas and boat ramps crowded in Florida. These scenes are not featured on the postcards of today, yet they are happening all around the U.S. coastline, according to a report released by Maine Sea Grant.

The report, *Access to the Waterfront: Issues and Solutions Across the Nation*, contains the results of a survey of over 140 coastal managers and extension agents conducted by Maine Sea Grant, Hawaii Sea Grant, the National Sea Grant network and coastal zone management programs. The survey found that access to and from the ocean is a challenge in many communities. With nowhere to swim and nowhere to land, recreational, commercial, and industrial users of the coast are competing for access, placing pressure on America's shorelines as a tide of demographic and economic change sweeps through coastal towns, harbors, and communities. Respondents to the survey cited multiple reasons for these changes, including increasing population and development, rising coastal property values, declines in

fishing and other industries, and shifting land ownership patterns. Resulting pressure on remaining public areas and infrastructure also means increased pressure on fragile coastal habitat, and coastal managers have limited resources to address these challenges.

According to Natalie Springuel of Maine Sea Grant, lead author of the report, one of the main goals of the survey and report was not only to cover the scope of the issue nationwide, but also to highlight the various solutions that communities are developing throughout the country.

"We hope this report prompts discussion of a nationwide strategy to address coastal access conflicts at the local, regional, and national level," Springuel concludes, "Open access to and from the water, supported by a national strategy, will ensure that our nation is vibrant and diverse, and that the delicate ecosystems where land meets water continue to sustain and inspire future generations."

The full report is available at <http://www.seagrant.umaine.edu/index.htm>, or in hard copy from Maine Sea Grant (207) 581-1435, kvillarreal@maine.edu.

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The Network is now expanding to include resource managers, commercial fishermen, research organizations, and citizens along the eastern U.S.

Identification

- Only crab in fresh waters of North America
- Claws equal in size with white tips and hair
- If you find a crab without hair on the claws, it is NOT likely to be a Mitten Crab
- Carapace up to 4 inches wide; light brown to olive green in color
- No swimming legs. This crab has eight sharp-tipped walking legs

If you catch a mitten crab

- Do not throw it back alive!
- Freeze the animal, keep it on ice, or preserve it in rubbing alcohol as a last resort
- Note the precise location and date where the animal was found
- Please take a close up photo of the animal. Photos can be emailed to SERCMittenCrab@si.edu for preliminary identification. Include your contact information with the photo.

- If you cannot take a photo contact the **Mitten Crab Hotline (443-482-2222)**

Please help by reporting any mitten crabs directly to the Mitten Crab Network or to your state resource manager!!

REMEMBER THE LAW!

Never transport a live Mitten crab across state boundaries.

Please visit http://www.serc.si.edu/labs/marine_invasions/ for updated Mitten Crab reports, downloadable pamphlets on the Chinese Mitten Crab Survey Program, and how to distinguish a Mitten Crab from other crabs in the region.



Source: Maryland DNR

IN THE NEWS

South Atlantic Fishery Management Council Approves Amendment to Create MPAs

The South Atlantic Fishery Management Council approved an amendment for submission to the Secretary of Commerce that will create a series of eight marine protected areas (MPAs) in the South Atlantic during a recent meeting in Florida. The areas, established in Amendment 14 to the Snapper Grouper Fishery Management Plan, are considered "Type 2" and will prohibit fishing for species in the snapper grouper management complex. The Council believes that MPAs are the most effective fishery management tool to allow deepwater snapper grouper species to reach their natural size and age, while protecting spawning locations and habitat.

Once Amendment 14 is formally submitted to the Secretary of Commerce for review, the public will have additional opportunity to comment on the actions proposed in the amendment. The review process is expected to take several months before the final rule implementing the marine protected areas is announced. Additional information regarding the review process and the timing for implementation will be posted on the Council's website at www.safmc.net as it becomes available.

Keep Your Eyes Open for Recently Introduced Habitat-related Congressional Legislation

S. 1579: Coastal Zone Enhancement Reauthorization Act of 2007

S. 1578/H.R. 2423: Ballast Water Management Act of 2007

S. 1142/H.R. 1907: Coastal Environment Land Protection Act (CELP)

S. 741: Working Waterfronts Preservation Act of 2007

H.R. 2400: Ocean and Coastal Mapping Integration Act

S. 1581: Federal Ocean Acidification Research and Monitoring Act of 2007

S. 1609/H.R. 2010: National Offshore Aquaculture Act of 2007

H.R. 16: Chesapeake Bay Restoration Enhancement Act of 2007

H.R. 767: Refuge Ecology Protection, Assistance, and Immediate Response (REPAIR) Act

Full text available at: <http://thomas.loc.gov/>.

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