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December 20, 2024

To: Committee for the Regional Assessment of Offshore Wind Development in Nova Scotia

**Subject: Response to the Draft Final Report of the Regional Assessment of Offshore Wind Development in Nova Scotia**

On November 1, 2024, Fisheries and Oceans Canada (DFO) received notice that the Draft Final Report of the Regional Assessment of Offshore Wind Development in Nova Scotia had been published to the Impact Assessment Agency of Canada's (IAAC) online registry. DFO has reviewed the report in detail and has prepared the enclosed set of comments for the Committee's consideration as it prepares the final report for publication in January 2025.

The submission includes feedback from the following DFO programs: Ecosystems and Oceans Science, Marine Planning and Conservation, Fish and Fish Habitat Protection, Species at Risk, Policy and Economics, Resource Management, and the Canadian Coast Guard. As the RA Study Area encompasses areas that fall within both the DFO Maritimes and Gulf Region's administrative boundaries, commentary from DFO Gulf Region is also included in this submission.

Given the depth and breadth of the information provided, DFO recognizes that the Committee will likely be limited in its capacity to consider all feedback ahead of the publication of its final report. As a result, a section on key considerations has been included in this submission (see Section 1 in enclosed comments). These considerations are reflective of the topics that DFO has determined to be of high priority to address and for which to ensure accuracy in the final report, as follows:

**Marine Conservation Areas:**

- Existing *Oceans Act* Marine Protected Areas (MPAs) do not provide exceptions for offshore wind development. Similarly, future *Oceans Act* MPAs are not likely to be compatible with offshore wind development due to the general prohibitions on disturbance, damage, destruction or removal in the MPA (see Section 3).
- Based on DFO's understanding of primary versus secondary constraints, *Fisheries Act* Marine Refuges should be treated as primary constraints given their status for long-term protection of marine biodiversity (see Section 4).
- The overlap between the Western and Emerald Banks Marine Refuge and the Western/Emerald Bank PDA should be removed (see Section 4).
- With the exception of Pemsik, DFO acknowledges that there is no other overlap between any PDAs and Tier 1 sites of the Scotian Shelf/Bay of Fundy Marine Conservation Network. DFO encourages avoidance of Pemsik and other Tier 1 sites

as site-specific implementation activities are anticipated during the 2025-2030 period. However, Tier 2 sites, which require further study, may be adjusted to account for future offshore wind siting.

### **Fish Habitat and Species at Risk:**

- DFO will have a regulatory role in the review of any offshore wind projects based on provisions in the *Fisheries Act* (FA) and the *Species at Risk Act* (SARA) to protect and conserve fish and fish habitat and species at risk (see Section 6). Exceptions to provisions are based on several factors in determining whether to issue a FA authorization (FA section 34.1) or a SARA permit or agreement (SARA section 73).
- The PDAs are within the distribution range of the following Endangered species (Schedule 1 – SARA): blue whale, northern bottlenose whale, North Atlantic right whale, white shark, leatherback sea turtle.
  - SARA Section 32(1) provisions against the killing, harming, harassing, capturing or taking of individuals apply everywhere that these species are found in Atlantic Canadian waters.
- The Committee should review the definitions of important habitat and critical habitat (CH) under the SARA and consider the implications of these for offshore wind development going forward (see Section 5), particularly the current inclusion of CH as a primary constraint. While current CH is spatially limited, it is anticipated that additional CH, including for migratory species, will be designated in the future.
- Potential impacts of offshore wind development on CH for listed species at risk are not well understood. For this reason, decisions on the compatibility of offshore wind with CH under SARA will be undertaken on a case-by-case basis through DFO's regulatory review process.
- Additional considerations are required around Sydney Bight as an important area for migratory marine species listed under SARA Schedule 1 and the implications for the Sydney Bight PDA (see Section 5).
- The leatherback sea turtle (LBST) important habitat data layer used in figure 4.11 of the report was not provided or endorsed by DFO. The depiction of LBST and northern bottlenose whale important habitat should be corrected in figure 4.11 based on information provided by DFO.

### **Spatial Analysis and Planning:**

- DFO maintains comprehensive data and information on commercial fisheries and other uses/activities occurring in the RA Study Area, along with spatial planning, analytical and mapping capabilities (e.g., Marxan with Zones analysis in Nagel et al. 2024).
- DFO tools and approaches can be scaled, updated and applied to characterize interactions among multiple marine use activities, environmental features, and associated management and regulatory measures (e.g., management zones). This information should be used in conjunction with more specific/localized industry and other sources of data and knowledge to provide detailed analysis and guidance for

- avoiding and/or limiting negative interactions in early offshore wind planning and siting processes.
- A marine spatial planning approach using authoritative sources of data and repeatable methods should be used to inform offshore wind site selection. The selection and use of limited data sources or criteria does not reflect the complexity involved in planning and management of a new marine activity sector in this region (see general comments in Section 7).
  - Although DFO maintains data and information on Indigenous activities in the RA Study Area, direct consultation with Indigenous communities and organizations is required to fully address these activities.

**Southern Gulf of St. Lawrence:**

- Information provided by DFO Gulf Region throughout the course of the RA should be reflected in the report, and further justification provided for the decision to focus the report on the Atlantic coast and offshore of Nova Scotia portion of the RA Study Area (see general comments in Section 7).

**Adaptive planning:**

- Areas identified for future offshore wind development should be revisited on a regular basis based on new information and knowledge that becomes available.

DFO welcomes any follow-up correspondence from the Agency or the Committee pertaining to this response.

Sincerely,

<Original signed by>

Wendy Williams  
Regional Director, Aquatic Ecosystems  
Fisheries and Oceans Canada

**Attachments:**

1. Written response.

c.c.: Alain Hebert  
Glen Herbert  
Monik Richard  
Donald Humphrey  
Luke Gaulton  
Emma Marotte  
Sara Lax (IAAC)