

DOC # 1



**New England Fishery Management Council  
Habitat/MPA/Ecosystems Oversight Committee Meeting Summary**

**January 6, 2011  
East Boston, MA**

**Committee members:** David Preble (chair), David Goethel, Doug Grout, Jim Fair, Terry Stockwell, Lou Chiarella, Gene Kray, Sally McGee

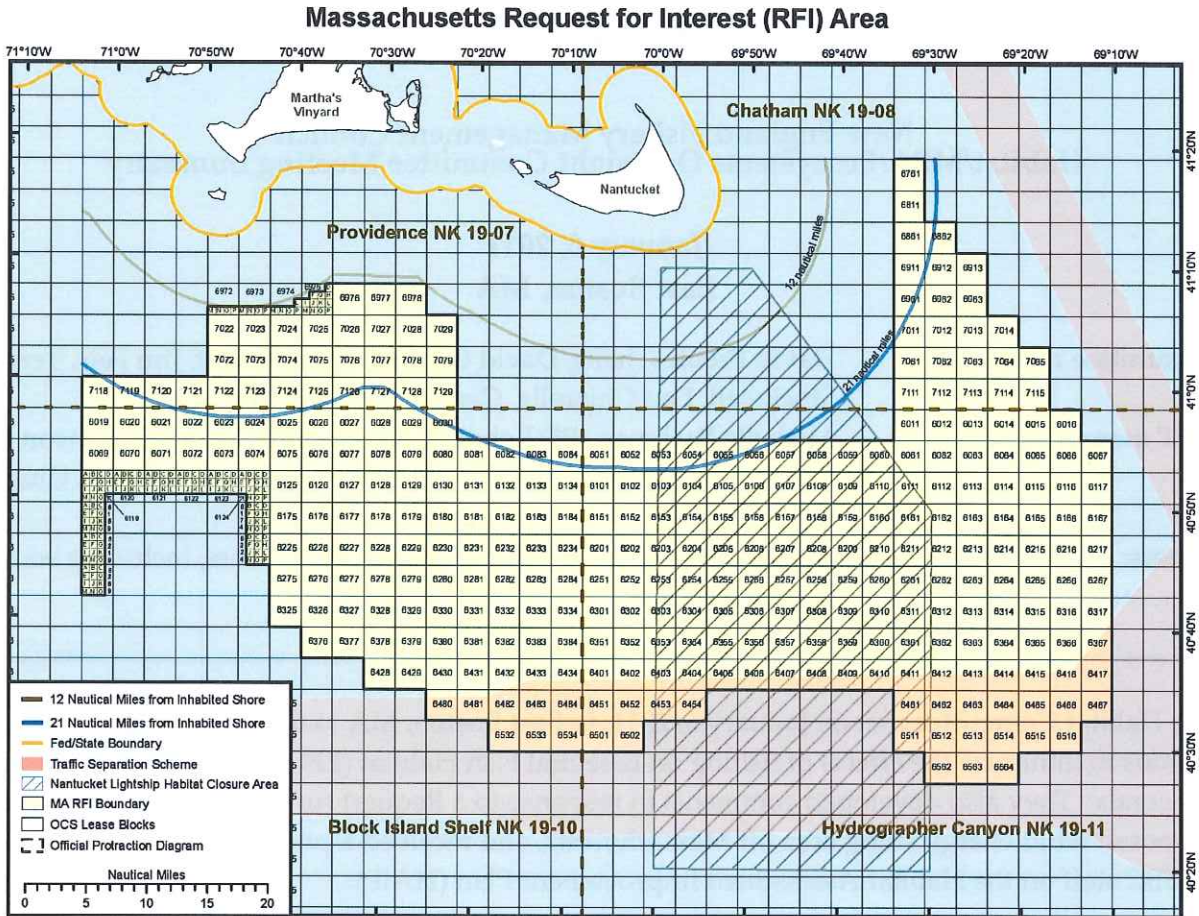
**PDT members:** Michelle Bachman (PDT chair, Council staff), David Stevenson (NERO), Moira Kelly (NERO), Jennifer Anderson (NERO), Chad Demarest (NEFSC), Peter Auster

**Others:** Approximately 15 additional audience members, including some habitat advisors

The Habitat Committee met on January 6, 2011, in East Boston, MA to discuss management options to minimize the effects of fishing on Essential Fish Habitat (EFH) and to protect deep-sea corals. They also developed comments in response to a Request for Information related to a proposed wind energy siting area off Massachusetts, and received a presentation from NMFS NEFSC staff on the Habitat Assessment Improvement Plan (HAIP).

**BOEMRE RFI – Wind Power siting off Southeastern MA**

The meeting commenced at 9:00 a.m. with a discussion of the Bureau of Ocean Energy Management Regulation and Enforcement (BOEMRE) Request for Information (RFI) for a large area off the southeastern coast of Massachusetts (see figure below). Chris Boelke (NMFS NERO HCD) explained that the area had been selected through a MA/federal taskforce process, which involves federal, state, local, and tribal entities. While there is no fishery management council participation in the task force, NOAA sends representatives from the Habitat Conservation Division (HCD) and from protected resources. NOAA has encouraged formal fishery management council involvement on the taskforce but has not yet been successful in this regard. The task force has an advisory role, but BOEMRE retains final decision making abilities. The recently issued Request for Information (RFI, available at <http://www.boemre.gov/offshore/RenewableEnergy/stateactivities.htm#Massachusetts>) initiates the NEPA process, which is expected to take 24 months from the conclusion of the comment period of February 28, 2011. The RFI solicits proposals from companies seeking to lease parcels in the area for wind power development, as well as comments from interested/affected parties. Mr. Boelke noted that NERO will be providing comprehensive comments to BOEMRE, but that they are seeking NEFMC input as they develop their comments.



While the task forces operate on a state-by-state basis (in New England, MA, RI, and ME have been particularly active), it was noted that the MA RFI area is adjacent to the RI Special Area Management Plan (SAMP) area, which is sited directly west of the MA area boundaries. The committee expressed concerns about the difficulty of responding to various individual state proposals without a region-wide sense for the total number of wind facilities that might be installed throughout New England. The committee also expressed concerns about the BOEMRE process occurring in a vacuum, i.e. outside of/in parallel to nascent regional marine spatial planning frameworks. One comment on the proposal, which will be made both to BOEMRE and to the Obama Administration, will be that the Council is concerned about these types of decisions on energy installations being made outside of a comprehensive marine spatial planning process. Correspondence with BOEMRE will reiterate NOAA's requests for formal fishery council involvement. It was noted that Federal Advisory Committee Act (FACA) concerns were raised by BOEMRE as a justification for not formally involving fishery management councils, but the exact rationale for this was not known. As FACA only applies to the Council in part, one committee member encouraged a more detailed investigation into this issue before writing the comment letter.



The committee discussed that in its comments, the Council should identify EFH designated in the area, as well as important fishing areas. Rick Bellavanace, a RI fisherman, noted that RI is working on the issue of where fishing occurs within the SAMP area, and that they were finding that it was important to communicate not only the locations of fishing but the magnitude of fishing effort. Concerns were also raised regarding potential hazards to navigation that wind turbines might pose.

One committee member commented that given the large size of the RFI area, he wanted to see specific proposals before developing extensive comments. Mr. Chiarella noted that there will be another opportunity to provide comments on specific proposed leases as part of the NEPA process, but recommended that the Council raise detailed concerns during this comment period to the extent possible. The committee expressed frustration that rather than areas for fishing being set aside, fishery interests are in a continual position of having to defend important fishing grounds from an influx of emerging ocean uses, including offshore wind.

Audience members also raised concerns. Drew Minkiewicz (Fisheries Survival Fund) noted that the northeast corner of the Nantucket Lightship Closed Area supports valuable scallop access fisheries. In a similar vein, David Wallace noted that, although they are not currently accessible because of regulations associated with the NLCA habitat closure, there are substantial clam resources throughout much of the RFI area. Bonnie Spinazzola (Atlantic Offshore Lobstermen's Association) asked how the energy installations were done, what the potential direct impacts of such installations were likely to be, and wondered if fishing would be precluded in and around wind turbines. She noted that insurance companies might be reluctant to insure vessels fishing near these installations, even if such fishing is authorized by BOEMRE. She reiterated committee frustrations that fishing interests has not been explicitly included, and likened the process to the National Science Foundation's Pioneer Ocean Observing Area project.

Gene Kray, who represents MAFMC on the habitat committee, noted that they submitted comments, in coordination with NERO, on a similar proposed wind power area off Delaware. They are awaiting final resolution on the issue this month or next. Their main concern was that wind turbines not interfere with fishing in an area known as the Old Grounds. Dr. Kray also noted that MAFMC is trying to be proactive in terms of responding to these types of issues, by getting involved with regional bodies such as MACOORA (Mid-Atlantic Coastal Ocean Observing Regional Association) and MARCO (Mid-Atlantic Regional Council on the Ocean), and by working with ASMFC to convene workshops. He encouraged NEFMC participation in these efforts.

### **Goals of Omnibus Amendment**

At the request of a committee member, the Chair had staff review the goals of the Omnibus Amendment and progress towards meeting those goals. They are as follows:

- 1) Phase 1:
  - a. Update the identification and description all EFH for those species of finfish and mollusks managed by the Council
  - b. Identify all major threats (fishing and non-fishing) to the EFH of those species managed by the Council
  - c. Review and update prey species information as required
  
- 2) Phase 2:
  - a. Identify and implement mechanisms to protect, conserve, and enhance the EFH of those species managed by the Council to the extent practicable
  - b. Define the measurable thresholds for achieving the requirements to minimize adverse impacts to the extent practicable
  - c. Integrate and optimize measures to minimize the adverse impacts to EFH across all Council managed FMPs
  - d. Update research and information needs, including consideration of dedicated habitat research areas

### Alternatives to protect deep-sea corals

Next the committee discussed a series of alternatives designed to designate deep-sea coral protection zones and develop management measures for their zones. The PDT chair explained that the PDT members who developed the straw man set of alternatives to begin with had intended for the committee to select an appropriate combination of coral zones, and then develop options to protect corals in those zones, in stepwise fashion. Multiple coral zone alternatives in combination might be most appropriate, and different types of restrictions could be used depending on the location. She noted that once the zone alternatives are narrowed down, the PDT can begin evaluating the overlap between fishing effort and the various coral zone alternatives, using SASI effort layers and other information.

1. **Stockwell/Goethel. To eliminate coral zone alternative 3.4.1.2 from consideration. Motion carried 5/2/0.**

#### **Committee discussion:**

This alternative would have designated the shelf/slope region between 100 meters and 2000 meters as a coral zone. The committee discussed that due to the magnitude of fishing effort between 100-200 meters (the depth associated with the deeper coral zone, 200 m-EEZ) it wouldn't be feasible politically to designate that shallow of an area as a coral protection zone. It was also pointed out that a number of the other alternatives which would designate individual canyons include portions of the outer shelf that are between 100 and 200 meters, so that elimination of this alternative would not remove the entire 100-200 area from further consideration.

They acknowledged industry concerns that, once designated, fishing restrictions could be implemented throughout coral zones. It was suggested that it would be appropriate to develop additional types of management alternatives beyond those implementing fishing restrictions; for example alternatives to encourage research within coral zones.

**Audience discussion:**

PDT members noted that the shallower depths are important for stony corals, more so than for soft corals and gorgonian corals which are on average found in deeper waters. However, one common, reef-forming species of gorgonian, *Primnoa resaediformis*, is found shallower than 200 m. NEFSC staff noted that the coral data currently available may be missing important coral areas entirely.

2. **Goethel/Fair. To eliminate coral zone alternative s 3.4.1.4 (all canyon and seamount HAPCs), 3.4.1.6 (all canyon and seamount HAPCs with known corals), 3.4.1.7 (tilefish GRAs) from consideration.**
- 2a. **To eliminate coral zone alternative s 3.4.1.4 (all canyon and seamount HAPCs) and 3.4.1.7 (tilefish GRAs) from consideration. Motion carried 7/0/0.**

**Committee discussion:**

The committee discussed that the two alternatives designating canyons plus inter-canyon zones encompass the alternatives designating canyons only, such that eliminating alternatives 3.4.1.4 and 3.4.1.6 would eliminate redundancy from the document. They also discussed that the tilefish GRAs weren't originally intended to protect corals, such that they were not appropriate as coral zones. A committee member asked what was meant by 'canyons with known corals', and the PDT responded that, given the available coral presence data, the 'canyons with known corals' contain a relatively large number of samples, while the other canyons contain only a few or no records of corals. However, it was noted that only the canyon HAPCs likely to contain corals were selected during phase 1 of the Omnibus process, such that even if corals have not been documented in all of the proposed HAPC canyons to date, there are likely corals there based on topography, depth, flow, and other variables.

**Audience discussion:**

Gib Brogan (Oceana) noted that the seamounts extend beyond the depths designated as HAPCs (i.e. deeper than 2000 m), and that the discretionary provisions would allow the committee to develop coral zones better associated with the actual extent seamounts, rather than being limited to the depth to which the EFH designations extend. David Stevenson (NOAA) reminded the Committee that the same applied to the outer boundaries of the canyon HAPCs, which are currently defined by the 1500 m depth contour.

3. **Fair/Kray. Include both 'prohibition' and 'restriction' in the following alternatives related to deep sea coral management: 3.4.2.1.2 through 3.4.2.1.5. Motion carried 7/0/0.**

**Committee discussion:**

The committee discussed their desire to make the management options related to coral areas more flexible to include gear restrictions (examples discussed included measures such as limits on the amount of fishing, or requirements to carry an observer in coral zones), in addition to outright prohibitions on fishing in corals zones.

**Audience discussion:**

Gib Brogan noted that he supported the access area concept outlined in the document. Greg Cunningham (Conservation Law Foundation) stated that it might be more appropriate to have two sets of alternatives, one for restrictions and one for prohibitions. He was concerned that the Council might have difficulty interpreting the Committee's intentions with regards to protections in coral zones.

4. **Grout/Goethel. In areas where deep-sea corals have not been documented, gear restrictions or prohibitions would not be put in place until research documents presence/absence, and if possible relative densities, of deep-sea corals. Following completion of this research, implementation of gear restrictions or prohibitions could be implemented via framework action. Motion carries 6/1/0.**

**Committee discussion:**

In general, the Committee expressed the desire to focus fishing restrictions and prohibitions on areas where corals are well known, while directing research and surveys into areas where we have little documented evidence of corals. While the group discussed where in the document to include this alternative (perhaps under the list of frameworkable items), no firm conclusion was reached. It was discussed that this type of option would apply most directly to a broad coral zone designation (i.e. the 200 m – EEZ coral zone option).

**Audience discussion:**

Gib Brogan stated his position that the Committee should be more precautionary in preventing expansion of fishing into areas that are currently unfished, and was concerned that this alternative would not accomplish that. He noted that the North Pacific FMC took a 'freezing the footprint' approach, and also that they take advantage of their five-year EFH reviews to reconsider coral information. Greg Cunningham expressed his opinion that this alternative would water down the fishing restriction/prohibition options if there is a burden to prove corals are in an area before closing it to fishing.

5. **Kray/Stockwell. To strike the language "following the SAFMC example" from 3.4.2.2. Motion carried 7/0/0.**

**Committee discussion:**

The committee discussed that while access area options might have potential, they weren't certain that the SAFMC model should be referenced so directly, as their strategy might not be able to be applied directly to coral areas in our region of North Atlantic.

**Presentation: HAIP and NEFSC habitat research**

The committee received a presentation from NEFSC Ecosystem Processes Division Chief Tom Noji (Sandy Hook Lab) on NMFS Habitat Assessment Improvement Plan and ongoing habitat-related research at the lab. The presentation, HAIP, and a summary report related to the May 2010 National Habitat Assessment Workshop meeting in St. Petersburg are available on the NEFMC website. Dr. Noji acknowledged audience member Dr. Richard Langton, also from the NEFSC Sandy Hook lab, who serves as a liaison between the Ecosystem Processes Division and the Council.

**Alternatives to minimize adverse effects of fishing on EFH**

The Chair dispensed with an introductory presentation on the methods employed to evaluate the adverse effects minimization options in order to move directly to a discussion of the individual options in the document. He noted that the first step was to remove any options that are no longer desirable/practicable, and that the second step was to develop alternatives consisting of sets of options. The group discussed that an appropriate range of alternatives would include at least three, highly, moderately, and minimally restrictive, in addition to the status quo.

Maggie Raymond (Associated Fisheries of Maine) stated her concern that current area closures would be replaced by new area closures, and also her concern for gear restriction options (i.e. maximum roller gear sizes). She noted a preference for closure removal options and stated that dedicated habitat research area options were acceptable provided that they are structured correctly. The group discussed that removal of habitat closed areas is only a first step towards allowing fishing in those areas, as most have overlapping mortality closure designations as well.

**6. Grout/Goethel. Move Cluster 5 (Georges Shoal) closure options and Cluster 7 (Browns Ledge) closure options to considered but rejected section.**

**6a. Motion to table until second committee meeting after the peer review. Motion to table carried 7/0/0**

**Committee discussion:**

One Committee member wondered if the only likely options on the table were removals of existing habitat closures meant that the outcomes post-Omnibus were essentially looking to be status quo. Others viewed the removal of closures only as an important step in the right direction, even if mortality closures remain in place. Another Committee member urged the group to not take too many options off the table at this stage, as the peer review was still pending (scheduled for Feb 14-16).

**Audience discussion:**

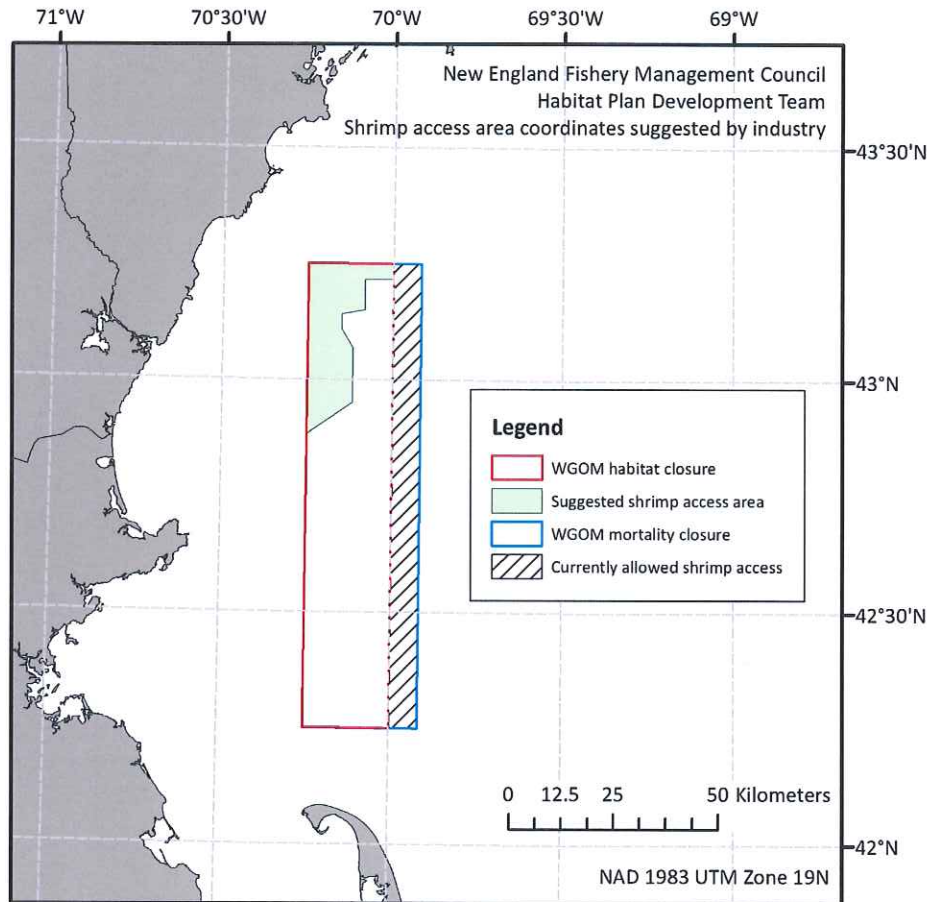
PDT member Peter Auster (UConn) noted that the Committee had previously stated that they would not use SASI prescriptively, and encouraged Committee members to avoid viewing the options analysis results in a prescriptive light. Gib Brogan stated his hope that the peer review would provide caveats as to the use of Z outputs from SASI (whether  $Z_{\infty}$ ,  $Z_{net}$ , or  $Z_{realized}$ ) as a universal measure of benefits/impacts. In response to a comment by the Committee chair that the continued existence of the mortality closures was constraining, Drew Minkiewicz noted that scallop access into mortality closures is a reasonably foreseeable future action, given the access-fishery-based management structure of that fishery. He stated his concern about some alternatives in the amendment being contingent upon the implementation of other Council actions (e.g. implementation of new habitat closures contingent upon removal of mortality closures at some later time). However, Maggie Raymond noted that at this stage, despite discussions at the November 2010 Council meeting, it would be appropriate for the Committee to recommend that the Council reconsider supporting development of a management action that would consider removal of the mortality closures.

**7. Stockwell/Goethel. Move to allow shrimp vessels into the WGOM habitat closed area (option 3.3.2.2) Motion carried 5/0/2.**

**Committee discussion:**

The Committee referenced a series of letters from the ASMFC Shrimp Section to the Committee and Council in regards to this issue. The limited season for shrimp and limited amount of total effort were discussed. Staff clarified which area the industry was seeking access to, and a figure developed by industry was referenced (see below for this area overlaid with WGOM habitat and mortality closures; note that the non-habitat closure portion of the WGOM already allows shrimping).





**8. Strategy to report to the Council in January: Approved 6/0/1**

- Create series of DHRA options
- Eliminate existing habitat closures
- Potentially replace habitat closures with those identified by SASI/PDT/Committee/AP
- Reconsider motion to eliminate mortality closures

**Committee discussion:**

There is time for a short Committee report during the January Council meeting, and the Committee discussed that it would be important to use this time to convey the direction in which alternatives development was headed so as to gauge Council support for various types of measures. The strategy above was developed by the group. Originally, the last bullet to reconsider the mortality closure options was to be presented separately, but it was discussed that reconsideration of this motion, or lack of reconsideration, was integral to the development of other management options in the Omnibus Amendment.

The meeting adjourned at approximately 4:00 p.m.

