

***Summary of comments received for 2011 Supplemental Habitat Omnibus Amendment NOI***

1. One commenter strongly wished NMFS had done more to protect corals in the past.
2. One commenter, on behalf of a fishing industry group, stated that a review of the NE multispecies closures is long overdue given the change to output control management, and is supportive of the effort to expand the scope of the Omnibus Amendment to include these closed areas.
3. A comment received from an environmental group supported the Omnibus Amendment, as well as expanding the scope to include review of the NE multispecies closures. However, there was concern regarding how much of a delay the expanded scope would cause and strongly recommends additional staff to assist in completing the Omnibus Amendment. The commenter also recommends using their recently completed Northwest Atlantic Marine Ecoregional Assessment (NAM ERA) in considering the potential adverse impacts to fish habitat that may result from modifying the existing closed areas, and attached a map for reference.
4. A comment was received from an environmental group that supported the expanded scope of the Omnibus Amendment to include examining the NE multispecies closures; however, there was concern regarding the timing of the Amendment, as well as the overlapping efforts in Ecosystem-Based Fisheries Management (EBFM) and National Ocean Policy. The commenter recommends multi-functional closed areas, and that the goals of the Omnibus Amendment should match the anticipated needs of EBFM to the degree possible, but without undue delay to the Omnibus Amendment. To this end, the commenter strongly recommends initiating a programmatic Environmental Impact Statement (EIS) for EBFM immediately to run parallel to the Omnibus Amendment.
5. A comment was received from a fishing industry group that supports expanding the scope to include review of the NE multispecies closed areas. Particularly, the commenter expressed concern with the affect the Western Gulf of Maine Closed Area has on the small boat fleet and coastal communities in the Gulf of Maine. The commenter also recommends that the EFH closures be smaller and more targeted to enable the fleet to catch the optimum yield from the fisheries involved.
6. A comment was received from a “membership-based community development organization that supports year-round island and waterfront communities along the coast of Maine” that was generally supportive of expanded scope of the Omnibus Amendment, but recommended the Council to consider the following: The “spatial variability in seafloor data; the need for long-term research areas; protection of critical habitat; the impact of wind energy siting; and the unique circumstances facing the small and mid-sized boat fishermen in the Gulf of Maine.”
7. A comment was received from an environmental group that was generally supportive of the expanded scope of the Omnibus Amendment, but cautioned that a coordinated process was essential. Particularly, the commenter was concerned that the two-pronged approach described at the Portland Council meeting (i.e., the Habitat and Groundfish PDTs/Committees working independently and then merging at the end) reflects a diversion from the Council’s recommended approach and conflicts with the recent Management Review, which may result in significant delays of the Omnibus Amendment. The commenter strongly recommended an integrated approach to the analyses.

**Subject:** Habitat Omnibus Amendment EIS  
**From:** Maggie Raymond <maggieraymond@comcast.net>  
**Date:** Tue, 05 Jul 2011 12:20:33 -0400  
**To:** HabitatNOI@noaa.gov  
**CC:** 'Paul Howard' <PHoward@NEFMC.ORG>, "'Michelle S. Bachman'" <mbachman@NEFMC.ORG>

July 5, 2011

Paul Howard, Executive Director  
New England Fishery Management Council

Dear Paul:

I write, on behalf of Associated Fisheries of Maine, to wholeheartedly endorse the intent of the New England Fishery Management Council to expand the scope of the Habitat Omnibus Amendment to include review of and possible changes to the NE multispecies closed areas.

It is our firm contention that the mortality closures are artifacts of the input control management system and are no longer necessary now that the NE groundfish fishery under output control.

Moreover, a review of the utility of these closures in terms of their benefit to increased productivity is long overdue.

Sincerely,

Maggie Raymond  
Associated Fisheries of Maine

# NORTHEAST SEAFOOD COALITION

July 18, 2011

Paul Howard  
Executive Director  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

Re: RIN 0648-XR75: Essential Fish Habitat (EFH) Components of Fishery Management Plans (Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Skates, Atlantic Salmon and Atlantic Deep Sea Red Crab) 5-Year Review: Supplemental notice of intent (NOI) to prepare a programmatic environmental impact statement (EIS).

Dear Paul,

The Northeast Seafood Coalition (“NSC”) submits the following comments for the supplemental notice of intent as it relates to the Essential Fish Habitat (EFH) component of the Northeast Multispecies Fishery Management Plan.

The NSC supports the direction to broaden the scope of this action in order to reevaluate the northeast multispecies closed areas. Without specific alternatives available for public comment at this point, however, NSC will provide initial comments on the importance of this reevaluation and also highlight considerations that should be made as alternatives to the existing areas are developed.

In general, many of the closures in place today are artifacts of the old effort control system which attempted to control fishing mortality through the imposition of various inefficiencies on the fishery including time-area closures. The Council has now chosen to replace that management strategy with one that uses output controls over fishing mortality with a fundamental objective of increasing the fishery’s efficiency and utilization of OY. Many of the existing closures greatly hinder fishermen’s ability to access and harvest their available allocation of stocks that are predominantly located within their boundaries. Preserving these closures has needlessly and harmfully undermined a core objective of the new sector system.

The decision to combine habitat closures with the existing mortality closures in Amendment 13, due to a lack of time to do otherwise, was a rushed decision that this process can and should correct immediately.

Specifically, this process should reevaluate the utility of these mortality closures such as the Western Gulf of Maine Closure. Using the Western Gulf of Maine Closure as an example, ***no single action could do more to preserve and protect the small boat fleet and coastal communities across the Gulf of Maine than the removal of this closure.***

# NORTHEAST SEAFOOD COALITION

This closure had significant economic and social consequences, which were supposed to be mitigated with a sunset clause that was never honored. This process should now honor what was originally promised to the fleet.

Only a fraction of the Optimum Yield (“OY”) of the groundfish multispecies complex is harvested each year and this improved only slightly under the first year of the sector system. Providing greater and more efficient access to productive fishing grounds for both inshore and offshore vessels through the removal of certain closures will be central to improving both the performance of the sector management system and the economic condition of the fishery.

With that in mind, NSC cautions that the Council must very carefully craft the boundaries of any new areas to be designated as EFH. The Council should focus its attention on identifying smaller - more targeted – areas to achieve EFH requirements. Choosing discrete designated areas would reduce the potential for exacerbating the fishery’s inability to utilize OY of certain stocks. It would also enable the fleet to “spread-out” and more broadly distribute fishing mortality.

Identifying and avoiding fishing grounds that have historical significant and economic importance to coastal communities is another critical objective for the Council in this process. Fishing communities have become highly dependent upon fishing grounds that are within a safe and economically efficient distance from their ports. A notable example is Stellwagen Bank which was designated as a National Marine Sanctuary specifically to protect and preserve its historical importance to nearby fishing fleets. Other similar areas of concern are Jeffrey’s Bank / Ledge and Great South Channel which must be preserved as historic fishing grounds when the Council considers expanding EFH in these areas.

Alternatives chosen for EFH designations should avoid the economic harm caused by unnecessarily hindering fishermen’s ability to safely and efficiently harvest their allocated stocks. These same principles should apply as the Council develops alternatives for research areas and considers gear modifications.

NSC appreciated the opportunity to comment on the notice of intent and looks forward to continuing to provide more comprehensive input in the future.

Sincerely,

*Jackie Odell*

Jackie Odell  
Executive Director



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July 18, 2011

Paul J. Howard  
Executive Director  
New England Fisheries Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

**Re: NEFMC Essential Fish Habitat Omnibus Amendment Notice of Intent to Prepare a Programmatic Environmental Impact Statement – Federal Register Notice/Vol. 76 No. 117**

Dear Captain Howard:

Please accept The Nature Conservancy's comments on the recent Federal Register Notice regarding the Essential Fish Habitat Omnibus Amendment. The mission of The Nature Conservancy is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. With the support of more than 1 million members, The Nature Conservancy has more than 150 marine conservation projects in 32 countries and every coastal state in the U.S.

The Nature Conservancy strongly supports the New England Fisheries Management Council's (the Council) ongoing efforts to complete the Essential Fish Habitat Omnibus amendment. We believe the Magnuson-Stevens Act requirements to identify Essential Fish Habitat (EFH) and minimize the adverse impacts of fishing on those habitats is a critical component of the overall effort to restore depleted fish populations and improve ecological resilience in the Northwest Atlantic. As you know, completion of the Omnibus amendment is several years overdue. We recognize that a significant amount of time has been devoted to developing the Swept Area Seabed Index (SASI) model and are hopeful that it will provide a valuable decision-support tool for the Council and other interested stakeholders. Nonetheless, we believe completion of the Omnibus EFH amendment is critically important and urge the Council to make it a top priority in the coming year.

The National Marine Fisheries Service is seeking comments on the utility of existing or alternative closures to address the needs of groundfish stocks, as well as on the impacts of changes to the existing closures on groundfish fishing and other activities. The Nature Conservancy supports the concept of expanding the scope of the EFH Amendment to consider modifying the groundfish mortality closed areas. Given the recent transition to an output-based management system in the groundfish fishery (sector management), we believe revisiting the need for

the groundfish mortality closures and other input controls that are artifacts of the old management system makes sense. However, we urge the Council to ensure that the potential adverse impacts to areas left vulnerable by potential modification and/or elimination of groundfish mortality closures are minimized as these alternatives are developed. It is our understanding that the proposal to consider these modifications in the context of the EFH amendment is intended to ensure that these potential impacts are considered.

While we support the proposal to consider these modifications as part of the EFH amendment process, we are concerned that doing so may result in unacceptable delays in finalizing the Amendment. If the Council and NMFS decide to expand the scope of the EFH amendment to include modifications to the existing groundfish closed areas, we recommend additional staff resources be dedicated to the Amendment to ensure it is completed in a reasonable timeframe.

The Nature Conservancy also encourages the Council to consider information included in our recently-completed Northwest Atlantic Marine Ecoregional Assessment (NAM ERA) as it considers the potential adverse impacts to fish habitat that may result from modifying the existing closed areas. The NAM ERA includes compiled and prioritized data and information on diverse coastal and marine ecosystem features from Cape Hatteras to the Bay of Fundy. The NAM ERA was developed in two phases; Phase One provides a comprehensive regional scale database of information on ecosystems, habitats and species, and Phase Two presents a suite of high priority conservation areas for all coastal, benthic and migratory species and habitats. The Conservancy worked closely with staff from the NEFMC and NMFS in conducting the assessment and believes the information and analysis contained therein will help to inform the decision-making process.

In particular, we encourage you to carefully consider the areas identified in our Phase 2 seafloor portfolio when contemplating modifications to the existing closed areas. The seafloor "portfolio" areas were selected due to their relatively high biodiversity values, including importance to demersal fish species, unique habitat occurrences, and representation of seafloor habitat types from across the study area. These areas, shown in blue on the attached map, were identified based on the presence, abundance, and persistence of six characteristics: persistence of demersal fish species, diverse demersal fish communities, corals and canyons, hard bottoms, seagrass, and benthic habitats. While the SASI model provides a good indication of the sensitivity of various seafloor habitats to disturbance, we believe the portfolio can provide additional information on biodiversity values as the Council considers modifications to the existing mortality closed areas. The attached map shows an overlay of existing habitat and mortality closures overlain on the proposed Habitat Areas of Particular Concern and the Conservancy's seafloor portfolio. Our scientists are available to work with the Habitat Plan Development Team, Committee, and Advisory Panel on interpreting the information we have provided.

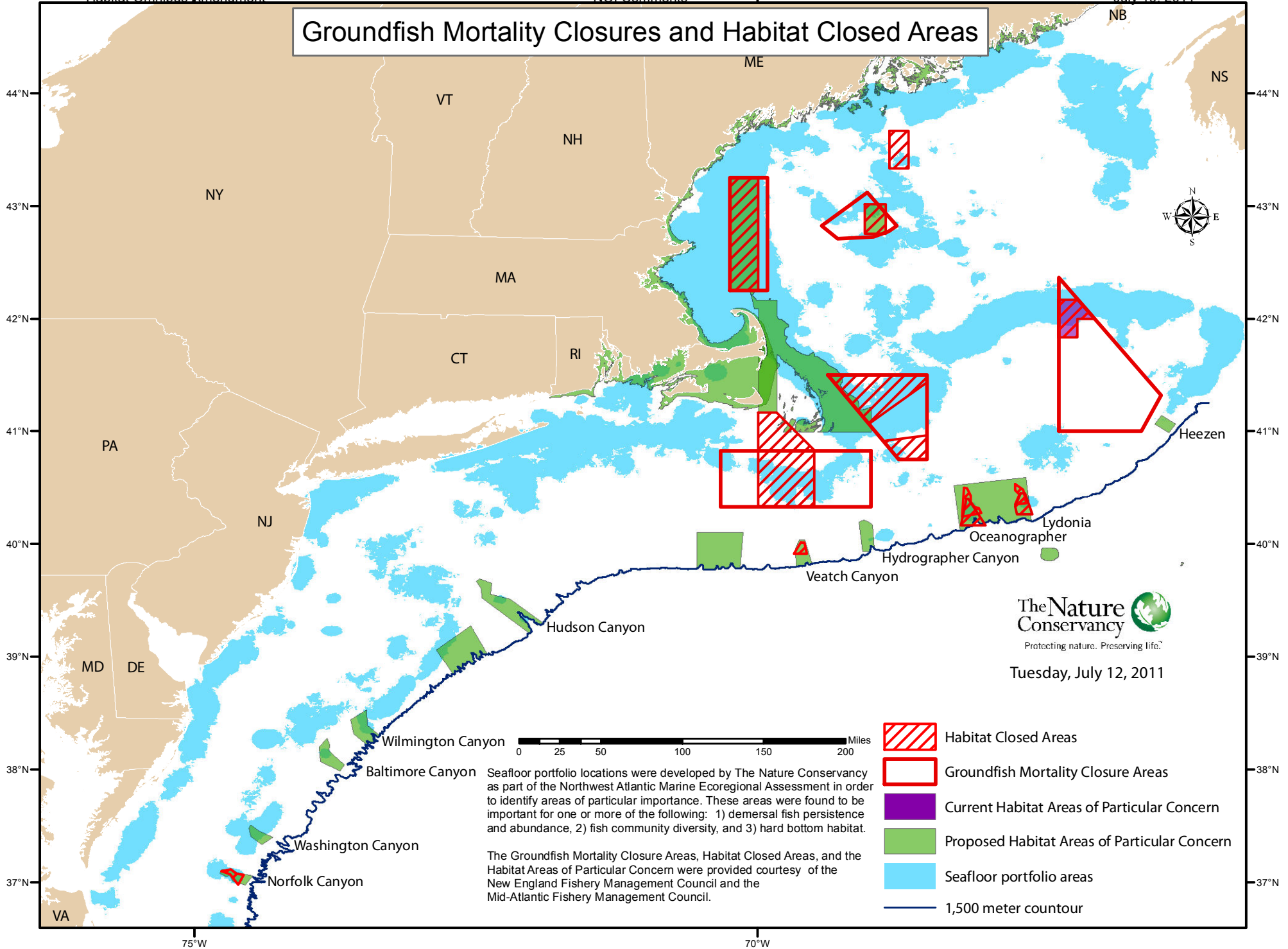
Thank you for the opportunity to provide comments and please don't hesitate to contact us if you have questions about this letter. We would welcome the opportunity to work directly with your staff to evaluate the utility of the NAM ERA data in helping to inform the further development and successful completion of the Omnibus EFH Amendment.

Sincerely,

Lise A. Hanners, Ph.D.

The Nature Conservancy  
Director of Conservation, Eastern U.S. Division

# Groundfish Mortality Closures and Habitat Closed Areas



Seafloor portfolio locations were developed by The Nature Conservancy as part of the Northwest Atlantic Marine Ecoregional Assessment in order to identify areas of particular importance. These areas were found to be important for one or more of the following: 1) demersal fish persistence and abundance, 2) fish community diversity, and 3) hard bottom habitat.

The Groundfish Mortality Closure Areas, Habitat Closed Areas, and the Habitat Areas of Particular Concern were provided courtesy of the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council.

The Nature Conservancy  
Protecting nature. Preserving life.<sup>™</sup>  
Tuesday, July 12, 2011





July 18, 2011

Captain Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street - Mill # 2  
Newburyport, MA 01950

**RE: Conservation Law Foundation's Comments on Supplemental Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement (EIS).**

Dear Captain Howard:

On behalf of the Conservation Law Foundation (CLF), I am pleased to present these comments on the supplemental Notice of Intent (NOI) outlining the Council's intention to expand the scope of the Omnibus Essential Fish Habitat (EFH) Amendment to include review of, and possible changes to, the Northeast (NE) multispecies closed areas (CA).<sup>1</sup>

The NE multispecies CAs Must be Considered in the EFH Amendment Process

CLF supports the New England Fisheries Management Council's (Council or NEFMC) decision to consider the status of the NE multispecies CAs, and possible changes to that status, within the EFH Amendment and its associated process. As the EFH Amendment process has finally reached a phase in which management options are being assessed in specific locations, it has become clear that approval of an Amendment that successfully protects EFH can only be achieved if the scope of the Council's review is broad and comprehensive. The possibility that management decisions could be made without consideration of the NE multispecies CAs and with their future role and existence entirely unknown, would present too much uncertainty for all affected parties. CLF supports this decision to merge an analysis of the CAs into the EFH Amendment process but our support is contingent upon the Council and staff undertaking this effort in a manner that is consistent with the Council's April 2011 decision to employ a coordinated procedure and that utilizes adequate resources to develop and complete this Amendment properly and expeditiously.

A Coordinated Procedural Approach is Essential

In its April 2011 meeting, the Council voted unanimously to adopt the "Option 3" approach of expanding the existing EFH Amendment to include an assessment of the NE multispecies CAs. This option was widely considered favorable to the other approaches which would have either created separate procedures for consideration of the CAs and the EFH Amendment or joined them in a single process that would include implementation of ecosystem-based fisheries

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<sup>1</sup> **Notice of Intent**, 76 Fed. Reg. 35,408 (June 17, 2011).

management.<sup>2</sup> In presenting the various procedural options to the Council, NEFMC staff was specific in indicating that one of the challenges, but clearly an essential component, of Option 3 was the “need to coordinate meetings and responsibilities of different Committees and PDTs”.<sup>3</sup>

CLF is concerned that, in spite of staff’s acknowledgement of the need for a cooperative effort and the Council’s decision to accept and undertake the challenge of coordinating its staff and committees to accomplish this task, the “development strategy” for this newly broadened EFH Amendment that was outlined by NEFMC staff at the Council’s meeting last month in Portland suggests little such coordination. Instead, Council staff appears to have ignored the Council’s preference for a merged approach in favor of a process in which the Habitat Oversight Committee and the Groundfish Committee and their respective plan development teams operating on parallel tracks that appear not to intersect for purposes of consultation, data sharing or other interactions designed to ensure consistency, compatibility and coordination among the recommendations being made as to the future of the NE multispecies CAs. Instead, the chosen strategy seems to have each committee reach its independent conclusions as to the future role and status of the CAs and those conclusions separately communicated to the Council, which will apparently be expected to correlate this likely disparate and unreconciled information and engage in critical decision-making based upon it.

The lack of internal coordination reflected in this strategy cannot be justified and is certain to result in delays that will exceed any efficiencies perceived to be gained by this procedural route. It is all the more concerning given that it both deviates from the Council’s approved approach and comes on the heels of the issuance of the recent Management Review Report (Pate Report) and its conclusions that numerous aspects of NEFMC administration and management are lacking in coordination.<sup>4</sup> In particular, the Pate Report’s findings to the effect that staff do not collaborate across PDTs and that there is a lack of consistency and standards among committees and PDTs, along with its recommendations that emphasize a need for collaboration across the board at the NEFMC, appear to have been entirely ignored in favor of a balkanized approach. Now is the time to institute improved practices that emphasize internal coordination, particularly given the Council’s interest in eventually undertaking eco-system based fisheries management (EBFM), a holistic methodology that demands the kind of close, interdisciplinary interactions that staff appears to be consciously avoiding with its current development strategy for the EFH Amendment.

There are understandable time constraints on these committees and PDTs, and this is a new and perhaps unexpected assignment for the Groundfish Committee. These limitations are real, but they do not justify the habitat and groundfish staff and Council members acting in isolation from one another as they simultaneously determine where the CAs fit into New England’s medium to long term fisheries management scheme. Consequently, CLF strongly recommends that the

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<sup>2</sup> See, *MARINE MANAGEMENT AREAS IN THE NORTHEAST –WHICH ONES SHOULD STAY AND WHICH ONES SHOULD GO? How do we evaluate the effectiveness, what is the best management vehicle to do the job, and when?* New England Fisheries Management Council, April 2011, pp.5-6.

<sup>3</sup> Id. at p. 6.

<sup>4</sup> *A Review of the New England Fishery Management Process*, Preston Pate and SRA-Touchstone Consulting Group, April 2011.

Council implement an approach that ensures an integration of information and ideas from the respective species and habitat management experts and managers, *in advance of* any presentation of alternatives to the Council. A failure to do so will likely result in proposals that are driven more by politics than science.

### The Committees Should Develop Detailed Integrated Plans

Fundamental to a coordinated effort and successful outcome from this process will be the development, by both the Habitat Oversight and Groundfish Committees, of an outline of the steps each body will undertake to develop a set of comprehensive EFH Amendment alternatives. This effort will require both committees, their respective PDTs and staff to identify which models and analyses they will rely upon, to prioritize their development to the extent that they are not yet completed, to incorporate into the plan properly coordinated joint meetings between the committees, PDTs or staff, as appropriate, and to establish an aggressive timeline that will guide the work and schedule of both committees and to which both will be held accountable. This kind of advance and transparent planning will help to diminish the concerns expressed by staff that this Option 3 “merged” approach might risk “overlooking important issues.”<sup>5</sup>

For example, it may be clear that the Groundfish Committee will consider the utility of the CAs in light of existing and anticipated future management of groundfish and that the Habitat Committee will assess the CAs in the context of the SASI model. However, this leaves important issues unaddressed such as: which committee will consider and be the source of data relative to the unique roles that these CAs have come to play after years of closure to bottom fishing; what are the biodiversity implications; what are the effects of increased spawning; and, what is the role of restored habitat in mitigating against scientific uncertainty and other such concerns? Issues and concerns need to be spelled out by the committees and a coordinated joint plan for addressing them should be developed and expeditiously implemented.

We would recommend that the integrated plan include among its assignments and responsibilities for the committees the following evaluations:<sup>6</sup>

- Appropriate analyses must be made of the current and historic ecological functions of the existing closed areas so that the impacts of any contemplated boundary changes can be evaluated adequately. The ecological functions may be greater than those anticipated in the policy establishing each area (e.g., protection of spawning areas or recovery of benthic communities in areas with a designated function in mortality control), and may well have increased as a result of many years of protection. The historical ecological function of the existing closed areas is important to understanding how these areas served the system at a time when abundance may have been at higher levels than it has been in the recent past.
- The influence of existing and proposed modified closed areas must be analyzed in terms of their current and historical contribution to fishery production for all stocks, including the role

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<sup>5</sup> *MARINE MANAGEMENT AREAS IN THE NORTHEAST –WHICH ONES SHOULD STAY AND WHICH ONES SHOULD GO? How do we evaluate the effectiveness, what is the best management vehicle to do the job, and when?* New England Fisheries Management Council, April 2011, p. 6.

<sup>6</sup> These recommendations, originally made by Dr. John Crawford of the Pew Environmental Group in its July 18, 2011 Habitat NOI Comment Letter, have been slightly modified by CLF.

of closed areas as spawning areas, feeding areas and areas where young fish can grow. Again, historical information should be built into this analysis.

- Appropriate analyses are needed for evaluating the contribution that existing and new area closures will make to mortality control even with Annual Catch Limits (ACLs) in place; among other things, closures can provide an important safeguard against management failures and unanticipated ecological events that could influence the performance of the ACL system. They may also serve a function of maintaining broad age distributions in the stocks by providing refugia to larger, adult females.
- The expected impact of any proposed boundary alterations on stock re-building schedules must be evaluated in the context of legal requirements.
- Any changes to the system of area closures must be designed so that the areas are efficient, meeting multiple biological objectives when possible, so that they are as consistent as is possible at this juncture with the Council's long term plans for ecosystem-based approaches to fishery management and conservation.
- Careful consideration should be given to the spatial relationships between existing closures, areas implicated by the analysis of the habitat PDT (e.g., SASI) and other spatial/ecological assessments of the region.
- Whether boundaries are changed or not, the management of areas for habitat protection must be reevaluated and updated to reflect current information about the manner in which different gear types interact with habitat and animal populations; for example, current groundfish closures allow mid-water trawl fishing on the now flawed and outdated assumption that this method neither contacts the bottom nor captures groundfish.
- Consideration should be given to the multiple functions that the existing areas are expected to fulfill according to existing policies. For example:
  - Interaction of groundfish mortality closures with other fisheries such as the herring fishery; herring fishing within existing closures is regulated through the groundfish fishery management plan.
  - Interaction with other policies such as the Marine Mammal Protection Act and the role of existing closures in take reduction (e.g., harbor porpoise)

Additionally, we urge that the committees consider: 1) the process by which the existing CA, and proposed alternatives to the existing areas, will be coordinated with the Council's development of ecosystem-based fishery management plans (EBFM), as area closures may be an essential tool for achieving ecosystem-management goals and objectives<sup>7</sup> and 2) how the planning contemplated by this action will be coordinated with priorities for marine ecosystem based management (EBM) and Coastal Marine Spatial Planning (CMSP) under the National Ocean Policy.

### Sufficient Resources Must Be Committed to Ensure Success and Avoid Further Delays

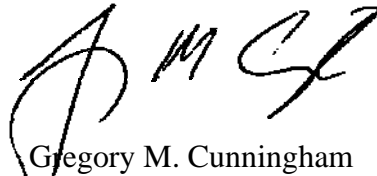
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<sup>7</sup> Council staff essentially acknowledges this need in its April 2011 CAs memorandum stating, "it is plausible that closed areas under ecosystem management may incorporate multiple objectives that are not currently incorporated in the range of existing closures. For example, a future ecosystem management plan may include management areas (including closures) to enhance components of the ecosystem such as biodiversity, prey species, protected resources, and other purposes." *MARINE MANAGEMENT AREAS IN THE NORTHEAST –WHICH ONES SHOULD STAY AND WHICH ONES SHOULD GO? How do we evaluate the effectiveness, what is the best management vehicle to do the job, and when?* New England Fisheries Management Council, April 2011, p. 1.

The EFH Amendment, which has been characterized by excessive delay and is long overdue, will have implications for every one of the fisheries managed by the Council. In spite of its far-reaching significance, the Amendment has been understaffed and under-funded throughout the lengthy seven year process to date. It is absolutely essential that the Council demonstrate its commitment to successful development and implementation of the EFH Amendment by making adequate staff available to contribute to this effort. Of particular concern is the habitat side of the equation where the Habitat PDT has lost three very active members in the last couple of months after being without its chair and staff member to the Habitat Committee for more than three months. Progress has slowed and what momentum once existed has been lost. If the Council is to demonstrate its commitment to fulfilling its legally-mandated EFH-related obligations under the Magnuson-Stevens Act,<sup>8</sup> it must adequately and appropriately staff the Habitat PDT and provide much needed support to the Habitat Committee staff.

Thank you for considering these comments.

Sincerely,



Gregory M. Cunningham  
Senior Attorney

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<sup>8</sup> E.g. 16 U.S.C. §1853(a)(7).



July 18, 2011

Captain Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street - Mill # 2  
Newburyport, MA 01950

**Habitat Supplemental notice of intent (NOI)**

Dear Captain Howard:

Thank you for providing an opportunity to comment on the Council's intention to expand the scope of the Omnibus Essential Fish Habitat (EFH) Amendment to include review of, and possible changes to, the Northeast (NE) multispecies closed areas (CA).<sup>1</sup> Habitat protection is a critical and complex issue, with significant implications for recovery and maintenance of groundfish and other stocks, and overall ecosystem health. The Omnibus EFH habitat amendment has been in process for many years and must be completed expeditiously, to improve habitat protection and allow the Council to move ahead with other new efforts that have developed since the Amendment's inception in 2004<sup>2</sup>, including Ecosystem Based Fishery Management (EBFM).

Though the proposed action concerning the Northeast (NE) multispecies closed areas has the potential to improve habitat protection, we remain concerned that this potential may not be realized. When possible, closure areas should be designed and managed to meet multiple fishery, habitat and ecosystem objectives. This appears to be an important goal of the Omnibus Amendment as the Notice of Intent (NOI) specifies that the amendment will include "management measures to minimize the adverse effects of fishing on EFH across all FMPs."<sup>3</sup> Nevertheless, we are not convinced that there is sufficient effort being made to achieve this crucial goal. Moreover, this action is being proposed while several related efforts are underway, including Ecosystem-Based Fishery Management (EBFM) and Ecosystem-Based Management (EBM) as envisioned under the new National Oceans Policy (NOP). Designing and managing closed areas for single fisheries, or individual stocks, is not as efficient or beneficial to the ecosystem as the more integrated approaches embodied by these two ecosystem efforts. A vision is needed for how the proposed action, and the Omnibus amendment more broadly, will be coordinated with these longer-term efforts.

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<sup>1</sup> **Federal Register** / Vol. 76, No. 117 / Friday, June 17, 2011 / Notices

<sup>2</sup> Public scoping initiated in 2004

<sup>3</sup> Ibid note 1 at p 35,408.

While we support the proposed action and recognize the need to consider the future of the CAs in conjunction with the Omnibus Amendment, we strongly suggest that the Council and the National Marine Fisheries Service (NMFS) commit to several critical steps to ensure the long term success of this effort and its coordination with ongoing initiatives:

- Initiate a programmatic Environmental Impact Statement (EIS) for Ecosystem-Based Fishery Management (EBFM) that includes an analysis of the role and design of closed areas within the broader ecosystem framework that both the Council and National Ocean Policy envision for the future; this process will take significant time and should be initiated now so that the Council will be poised to take appropriate and logical steps once the current Omnibus Amendment is completed.
- Conduct an analysis of the ecological functions of current NE multispecies closed areas as an assessment of potential biological impacts of any proposed changes to these areas; much of the data and observations for such analyses are currently in hand or available in published materials.
- Execute a comprehensive analysis of the policy implications of any proposed changes to the NE multispecies closed areas since these areas have implications beyond the NE multispecies Fishery Management Plan.
- Develop a comprehensive closed area plan that produces a net improvement for regional ecosystem support, including fishery production, habitat protection and overall mitigation of fishing impacts in the New England region; this plan should be developed as a joint effort between representatives of the habitat committee and PDT, of the groundfish committee and PDT, and members of the SSC working on EBFM.

The Council identified Ecosystem-Based Fishery Management through its priority setting process<sup>4</sup> and has been developing plans for EBFM for a number of years.<sup>5</sup> Multi-functional closed areas are an essential tool for EBFM. Therefore the Council's expansion of the scope of the Omnibus EFH Amendment should consider the role that existing and proposed closures could play in an EBFM regime. Such analyses should be conducted with an integrated approach to the design and management of closures in New England waters. New England needs a spatial plan that includes multi-functional areas that serve to protect reproductively mature adult fish, juvenile fish and nursery areas, spawning sites, feeding areas for regulated species, recovery of benthic communities and ecological research. However, the reexamination of existing NE multispecies closed areas and consideration of new areas will require additional ecological and policy analysis to achieve these goals. The plan for habitat protection resulting from the Omnibus Amendment should be matched to the anticipated needs of the EBFM plan to the degree that is currently possible and without introducing further delays in the Omnibus process.

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<sup>4</sup> EBFM planning was approved as a Council priority during the November 2009 Council meeting, see November 2009 *Council Report*.

<sup>5</sup> Workshop on Ecosystem – based Fisheries Management New England Fishery Council Scientific and Statistical Committee August 26-27, 2009; *White Paper On Ecosystem – Based Fishery Management For New England Fishery Management Council Prepared by Scientific and Statistical Committee NEFMC*, October 2010, available at [www.nefmc.org/tech/cte\\_mtg\\_docs/101102-03/ebfm/White%20Paper\\_report\\_15%20oct%202010.pdf](http://www.nefmc.org/tech/cte_mtg_docs/101102-03/ebfm/White%20Paper_report_15%20oct%202010.pdf); SSC presentation to NEFMC *Ecosystem – Based Fishery Management for the New England Fishery Management Council*, April 27, 2011, Mystic CT;

The Council and NMFS must work to ensure that this action does not contribute to a sequence of disjointed efforts to protect habitat in New England. This would be wasteful, and could possibly sacrifice gains already made through habitat protection. Plans must be coordinated with ongoing efforts to develop EBFM at a regional level, and, at the appropriate stage, integrated with implementation of strategic action plans for Ecosystem Based Management (EBM) and Coastal and Marine Spatial Planning (CMSP) as directed through the National Ocean Policy.<sup>6</sup>

In the spirit of forging a long-term vision for fisheries in a world where impacts to the marine environment are growing rapidly,<sup>7</sup> we strongly urge the Council and the National Marine Fisheries Service to initiate a programmatic Environmental Impact Statement (EIS) for EBFM immediately. This effort can and should run in parallel to the Omnibus Amendment and should not serve to compromise the schedule for completion of the Amendment. The analyses conducted through such an EIS will provide a strong framework for developing EBFM as a vital component of EBM.

#### **Evaluation of existing closures and the benefits or costs of adopting new boundaries**

If the existing NE multispecies closed areas are to be rolled into the Omnibus EFH Amendment with possible changes to the CAs, then additional analyses will be needed to understand the consequences of any proposed changes. Though these areas are often referred to simply as “mortality closures,” the large areas on Georges Bank (I & II) have a long history, initially as seasonal closures, and were originally identified as areas where haddock aggregate for spawning.<sup>8</sup>

These closed areas include a range of habitat types, including cobble-gravel bottom serving as nursery habitat for juvenile groundfish of a number of species<sup>9</sup> (e.g., Habitat Area of Particular Concern in the Northern part of CA II; bottom sediment type is just one of several prominent habitat features that influence distribution patterns for groundfish, others include depth, water temperature, stratification and current). The ecological benefits of these areas include increased production of the target stocks for which they were designed, as well as benthic invertebrates (e.g., scallops) and other non-resource species.<sup>10</sup> Like the Georges Bank areas, protection in Southern New England (Nantucket Lightship area) was intended to reduce mortality on spawning and juvenile yellowtail flounder. The Western Gulf of Maine Closure (WGOMC) was implemented in 1998 as a fisheries closure to control groundfish mortality and is now a habitat closure with some additional protections from mobile fishing gear. This area also includes diverse habitats including boulder reefs and gravel pavement and the best available scientific information indicates that, among other things, the area has contributed to the recovery of the

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<sup>6</sup> On July 19, 2010, President Obama signed Executive Order 13547 establishing a National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes (“National Policy”); 76 FR 4139; <http://www.whitehouse.gov/administration/eop/oceans>

<sup>7</sup> *A Review of the New England Fishery Management Process* (April 2011). Preston Pate and SRA-Touchstone Consulting Group.

<sup>8</sup> See Murawski et al 2000. Large-scale closed areas as a fishery-management tool in temperate marine systems: the Georges Bank experience. *Bulletin of Marine Science*, 66(3): 775–798, 2000; Halliday RG 1988. Use of seasonal spawning area closures in the management of haddock fisheries in the Northwest Atlantic. *NAFO Sci. Coun. Studies*, 12: 27-36

<sup>9</sup> See Murawski et al 2000 at note 9.

<sup>10</sup> Murawski et al 2005. Effort distribution and catch patterns adjacent to temperate MPAs. *ICES Journal of Marine Science*, 62: 1150-1167; Murawski et al 2000 at note 9.



benthic invertebrate community within the closure.<sup>11</sup> These and other ecological functions must be carefully evaluated to inform the decisions contemplated with the present policy action. These areas clearly serve a variety of functions beyond a role in controlling fishing mortality in adult fish.

The habitat Plan Development Team (PDT) has provided an extensive and valuable analysis of expected seafloor vulnerability to certain types of fishing gear.<sup>12</sup> Nevertheless, following the scientific peer review of this analysis, it was reported at the Council's Scientific and Statistical Committee (SSC) meeting that the principal analytical tool developed by the habitat Plan Development Team (Swept Area Seabed Impact Model, or SASI) is not sufficient by itself for determining the biological or economic consequences of opening existing closed areas or closing new areas.<sup>13</sup> Additional analyses are required to support a science-based redesign of the system of closed areas.<sup>14</sup> The SASI analysis does not serve as a basis for evaluating the contribution of closed areas to fishery production, and is generally weak in its incorporation of biological data. It is also important to note that, according to the peer review report, the review committee did not examine how the computer-based method produced its results (i.e., the programming code itself was not reviewed or tested in anyway). To the best of our knowledge, these programs that were developed by members of the Plan Development Team have not been reviewed or tested by any external person or review group. Thus, if the intended modification to the Omnibus Amendment is undertaken, a number of important issues will require further investigation.

Biological data sets that could be used to further inform the process of evaluating areas for habitat protection include the NEFSC seasonal bottom trawl survey, data from the Northeast Fishery Observer Program (NEFOP) within the NMFS Fisheries Sampling Branch, an extensive survey of benthic invertebrates also collected by the NEFSC,<sup>15</sup> various shorter term surveys conducted by NMFS and coastal states,<sup>16</sup> and data that may be available from researchers at the region's many academic institutions. The NEFSC seasonal bottom trawl survey was originally designed to sample demersal fishes (i.e., bottom dwelling) but the survey has proven valuable for a much broader spectrum of species, including some invertebrates. The survey has been used in habitat studies of various kinds,<sup>17</sup> including

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<sup>11</sup> Tamsett A et al., 2010. Dynamics of hard substratum communities inside and outside of a fisheries habitat closed area in Stellwagen Bank National Marine Sanctuary (Gulf of Maine, NW Atlantic). Marine Sanctuaries Conservation Series ONMS-10-05. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries, Silver Spring, MD. 53 pp.

<sup>12</sup> See Swept Area Seabed Impact Model (SASI) at <http://www.nefmc.org/habitat/index.html>

<sup>13</sup> SSC meeting March 30, 2011, Boston, MA – Peer Review Report, Dr. Patrick Sullivan; Sullivan P, Cournane JM, Holland DS, Langton R, Lipton D (2011) *Swept Area Seabed Impact (SASI) Model Peer Review On Behalf of the New England Fisheries Management Council Providence, RI – February 15-17, 2011*

<sup>14</sup> *Conservation and management measures shall be based upon the best scientific information available*, National Standards For Fishery Conservation And Management, SEC. 301, 16 U.S.C. 1851.

<sup>15</sup> Theroux R, Wigley R (1998) Quantitative composition and distribution of macrobenthic invertebrate fauna of the continental shelf ecosystems of the northeastern United States. NOAA Tech. Rep. NMFS 140; 240 p; see also Link et al (2006) Documentation for the Energy Modeling and Analysis eXercise (EMAX). Northeast Fisheries Science Center Reference Document 06-15 (part 10).

<sup>16</sup> See The Northeast Ocean Data Portal developed by the Massachusetts Ocean Partnership; <http://northeastoceandata.org/>

<sup>17</sup> Crawford JD, Smith J (2006) *Marine Ecosystem Conservation for New England and Maritime Canada: A Science-Based Approach to Identifying Priority Areas for Conservation*. Conservation Law Foundation and WWF-Canada, 193 pp; Cook RR, Auster PJ (2005) Use of Simulated Annealing for Identifying Essential Fish Habitat in a Multispecies Context. *Conservation Biology* 19 (3):876–886; Auster PJ et al (2001). Fish species and community distributions as proxies for seafloor habitat distributions: the Stellwagen Bank National Marine Sanctuary

many peer reviewed stock assessments and journal articles dealing with representatives of a variety of ecological communities including pelagic and or benthic-pelagic types.<sup>18</sup>

Below are several important issues and areas where further analysis should be done in support of the proposed action.

### **Evaluation of biological impacts of modifications to existing closed areas**

- Appropriate analyses must be made of the current ecological functions of the existing closed areas so that the impacts of any contemplated boundary changes can be evaluated adequately. The ecological functions may be greater than those anticipated in the policy establishing each area (e.g., protection of spawning areas or recovery of benthic communities in areas with a designated function in mortality control) and may well have increased as a result of many years of protection.
- The influence of existing and proposed modified closed areas must be analyzed in terms of their contribution to fishery production for all stocks, including the role of closed areas as spawning areas, feeding areas and areas where young fish can grow.
- Appropriate analyses are needed for evaluating the contribution that existing and new area closures will make to mortality control even with Annual Catch Limits (ACLs) in place; among other things, closures can provide an important safeguard against management failures and unanticipated ecological events that could influence the performance of the ACL system.
- The expected impact of any proposed boundary alterations on stock rebuilding schedules must be evaluated in the context of legal requirements.
- Any changes to the system of area closures must be designed so that the areas are efficient, meeting multiple biological objectives when possible, so that they can support ecosystem-based approaches to fishery management and conservation.
- Careful consideration should be given to the spatial relationships between existing closures, areas implicated by the analysis of the habitat PDT (e.g., SASI) and other spatial/ecological assessments of the region.<sup>19</sup>
- Whether boundaries are changed or not, the management of areas for habitat protection must be reevaluated and updated to reflect current information about the manner in which different gear types interact with habitat and animal populations; for example, current groundfish closures allow mid-water trawl fishing on the now outdated assumption that this method neither contacts the bottom nor captures groundfish.

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example (Northwest Atlantic, Gulf of Maine). *Environmental Biology of Fishes* **60**:331–346; Greene JK, Anderson MG, Odell J, Steinberg N, eds. (2010) *The Northwest Atlantic Marine Ecoregional Assessment: Species, Habitats and Ecosystems. Phase One*. The Nature Conservancy, Eastern U.S. Division, Boston, MA, [www.nature.org/namera](http://www.nature.org/namera)

<sup>18</sup> see for example Brown SK et. al. 1996. ECNASAP. Silver Spring, MD: National Oceanic and Atmospheric Administration, and Dartmouth, NS: Department of Fisheries and Oceans; Nye JA et al. 2009. *Marine Ecology Progress Series* **393**: 111–129; Nye et al 2009. *ICES Journal of Marine Science*, **67**: 26–40; 49<sup>th</sup> Northeast Regional Stock Assessment Workshop (49<sup>th</sup> SAW) Assessment Report. US Dept Commerce, Northeast Fish Science Center Reference Document 10-01 (Butterfish).

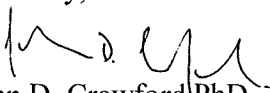
<sup>19</sup> See for example Crawford JD, Smith J (2006) *Marine Ecosystem Conservation for New England and Maritime Canada: A Science-Based Approach to Identifying Priority Areas for Conservation*. Conservation Law Foundation and WWF-Canada, 193 pp.

### Coordination Issues

- A comprehensive analysis of how the existing areas, and proposed alternatives to the existing areas, will be coordinated with the Council's development of ecosystem-based fishery management plans (EBFM) is needed; area closures may be an essential tool for achieving ecosystem-management goals and objectives.
- An analysis must be provided of how the planning contemplated by this action will be coordinated with priorities for marine ecosystem based management (EBM) and Coastal Marine Spatial Planning (CMSP) under the National Ocean Policy.
- A full review must be performed of the multiple functions that the existing areas are expected to fulfill according to existing policies. For example:
  - Interaction of groundfish mortality closures with other fisheries such as the herring fishery; herring fishing within existing closures is regulated through the groundfish fishery management plan.
  - Interaction with other policies such as the Marine Mammal Protection Act and the role of existing closures in take reduction (e.g., harbor porpoise)

We are generally supportive of taking a more holistic approach to habitat protection in New England. The proposed expansion of the scope of the Omnibus EFH Amendment could be an important step in that direction if the needed analyses are completed so that decisions are well-informed. It is essential that any changes to existing closed areas are balanced by new closures so that the overall contribution to habitat protection and ecosystem health is enhanced for the benefit of fisheries production and other uses of the marine ecosystem. Alternatives for habitat protection should include increased protection and permanence of existing habitat protection areas, and expanded protection around areas of well-known ecological significance and/or vulnerability. For example, such areas might include Cashes Ledge, Stellwagen Bank and known spawning and/or nursery areas for cod and other fish species. Additionally, particular consideration should be directed toward areas that are both vulnerable, according to SASI, and identified as ecologically significant through analyses of biological data.

Sincerely,



John D. Crawford PhD  
Science and Policy Manager – Northeast Region



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July 18, 2011

Captain Paul J. Howard, Executive Director  
New England Fishery Management Council  
50 Water Street - Mill # 2  
Newburyport, MA 01950

RE: Comments on Supplemental Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact Statement (EIS).

Dear Captain Howard:

We appreciate the opportunity to comment on the Council's intention to expand the scope of the Omnibus Essential Fish Habitat (EFH) Amendment to include review of, and possible changes to, the Northeast (NE) multispecies closed areas. The Island Institute is a membership-based community development organization that supports the year-round island and working waterfront communities along the coast of Maine.

There are several critical factors relevant to changes in closed areas for habitat and groundfish mortality and we would urge NEFMC to consider:

**1. *Spatial variability in high-resolution seafloor data*** – Spatial resolution of seafloor data is poor throughout most of the Gulf of Maine and the variability in the quality in the underlying data affects the areas that are highlighted in the SASI-LISA analysis. We encourage NEFMC to clearly display data quality and data coverage along with SASI-LISA results in order to allow stakeholders to understand the way in which data coverage influences the analyses.

**2. *Research benefits*** - There is a research benefit in keeping some areas closed for long term study of the differences between areas that are and are not fished. NEFMC should develop a clear set of research objectives aimed at understanding the impact of closed areas, and decisions related to closing certain areas, or allowing more fishing in areas that are currently closed, should align with NEFMC research goals.

**3. *Protection of key small spawning and juvenile habitat areas*** - NMFS and NEFMC should consider the newest available scientific information on the importance of relatively small areas for critical life stages, particularly spawning and juvenile habitat areas, and seriously consider

refining the use of closed areas to afford the highest levels of protection to smaller areas considered particularly important for the suite of groundfish species.

**4. Impact of siting of new offshore wind facilities in the Gulf of Maine** – Sites under consideration for new offshore wind facilities in federal waters in the New England region will likely act as de facto closed areas for at least mobile gear, and possibly for all fishing gear. NMFS and NEFMC should closely coordinate changes in closed areas for fishery management purposes (both habitat areas and groundfish mortality areas) with de facto closed areas associated with offshore wind energy developments. For the northern Gulf of Maine, the University of Maine has estimated that if 5 GW of floating offshore wind farms are sited 10 miles and more from the coast of Maine (in line with state of Maine goals), it could mean five 1 GW wind farms, each containing 200 turbines, and each encompassing approximately 50 - 150 square miles in areas that are currently fished (<http://deepcwind.org/offshorewindreport>). As and when offshore wind energy developments are sited, NEFMC, NMFS and BOEMRE should work together to analyze the habitat and mortality impacts of these areas, and ensure that fishery spatial management areas are re-assessed as needed. NEFMC, NMFS and BOEMRE should also work to ensure that wind energy developments are sited where they are likely to lead to the least negative impact on fisheries, and where any habitat benefit is maximized.

**5. Consideration of impacts on fleet diversity** - Any changes in closed areas should be undertaken with particular attention to what impact these changes will have on fleet diversity, particularly the small- and medium-sized vessels fishing from Maine's coastal communities. Many of these vessels are limited in the maximum distance from shore that they can travel to fish, and are therefore completely dependent on relatively near-shore areas. One option for ensuring continued access for these communities, while achieving some certainty in terms of habitat impact in the HAPC on the coastal shelf, would be implementation of gear restrictions providing for maximum gear lengths or sizes in these areas. NEFMC should work actively to ensure that any changes to habitat and mortality areas do not have unintended deleterious impacts on this component of the fleet.

We generally support the efforts of the Council to expand the scope of the Omnibus EFH Amendment, but we would request that any consideration of changes to the NE closed areas take into account: the spatial variability in seafloor data; the need for long-term research areas; protection of critical habitat; the impact of wind energy siting; and the unique circumstances facing the small and mid-sized boat fishermen in the Gulf of Maine. Thank you for your consideration.

Sincerely,



Heather Deese  
Vice President of Programs



**Subject:** PUBLIC COMMENT ON FEDERAL REGISTER FW: these fish councils are stuffed with fish profiteers who make rules for their own financial wellbeing

**From:** usacitizen1 usacitizen1 <usacitizen1@live.com>

**Date:** Sat, 18 Jun 2011 07:39:41 -0400

**To:** HabitatNOI@noaa.gov, speakerboehner@mail.house.gov, sf.nancy@mail.house.gov, info@oceana.org, info@opsociety.org

YOU SHOULD HAVE ACTED TO SAVE CORAL 20 YEARS AGO, BUT YOU ALL SAT ON YOUR BUTTS AND DID NOTHING, WHICH IS WHAT THIS AGENCY USUALLY DOES. IT LETS THE SPECIES DIE BEFORE IT ACTS AT ALL. THIS AGENCY IS WORKING FOR COMMERCIAL FISH PROFITEERS, WHO ARE CHEWING UP EARTH IN THE MOST DASTARDLY WAY. THIS AGENCY NEEDS TO SAVE THE GENERAL PUBLIC, WHICH OWNS ALL THE OCEAN AND MARINE LIFE. BUT \THIS AGENCY DOES NOTHING TO SAVE OR PROTECT. IT IS A VILE DISGUSTING DO NOTHING AGENCY. WE NEED TO PROTECT. THIS AGENCY IS NOT DOINGI THAT. .  
JEAN PUBLIC ADDRESS IF REQUIRED

[Federal Register Volume 76, Number 117 (Friday, June 17, 2011)]

[Notices]

[Pages 35408-35409]

From the Federal Register Online via the Government Printing Office [[www.gpo.gov](http://www.gpo.gov)]

[FR Doc No: 2011-15152]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XR75

Essential Fish Habitat (EFH) Components of Fishery Management Plans (Northeast Multispecies, Atlantic Sea Scallop, Monkfish, Atlantic Herring, Skates, Atlantic Salmon, and Atlantic Deep-Sea Red Crab) 5-Year Review

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

ACTION: Supplemental notice of intent (NOI) to prepare a programmatic environmental impact statement (EIS).

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SUMMARY: The New England Fishery Management Council (Council) is in the process of preparing a programmatic EIS for an Omnibus EFH Amendment to the fishery management plans (FMPs) for Northeast (NE) multispecies, Atlantic sea scallop, monkfish, Atlantic herring, NE skate complex, Atlantic salmon, and Atlantic deep-sea red crab. The Council will expand the scope of this action to include review of, and possible changes to, the NE multispecies closed areas. During this comment period, the Council is seeking comments on the possible revision of these management areas.

DATES: Written comments must be received on or before 5 p.m. e.s.t., July 18, 2011.

ADDRESSES: You may submit comments by any of the following methods:

E-mail: [HabitatNOI@noaa.gov](mailto:HabitatNOI@noaa.gov).

Mail: Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

Fax: (978) 465-3116.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION: The purpose of this notification is to alert the interested public of the Council's intent to consider changes to the NE multispecies closed areas in the Omnibus EFH Amendment. A description of the background and need for the Omnibus EFH Amendment can be found in the original NOI dated February 24, 2004, (69 FR 8367) and is not repeated here. The amendment has been developed in two phases. Phase 1 included a review and update of EFH designations, consideration of habitat areas of particular concern, an updated prey species list, and an update of non-fishing impacts. A notice of availability for the Phase 1 Draft EIS (DEIS) was published on April 6, 2007 (72 FR 17157).

Phase 2 will include an evaluation of the effects of fishing on EFH, and management measures to minimize the adverse effects of fishing on EFH across all FMPs. A subset of the alternatives to minimize the impacts of EFH will focus specifically on minimizing the impacts of fishing on deep-sea corals. During early meetings to develop Phase 2 alternatives in late 2009 and early 2010, the Council's Habitat Oversight Committee concluded that development and implementation of new or modified habitat management areas was complicated substantially by the existence of the NE multispecies closed areas. There is considerable spatial overlap between the NE multispecies closed areas and the current habitat areas which are closed to bottom tending mobile gears. Generally, the NE multispecies closed areas are closed to all



gear capable of catching groundfish, including but not limited to mobile gears, although there are specific exemptions for certain fisheries and gear types. Specifically, the Habitat Oversight Committee was concerned about the feasibility of implementing new habitat management areas outside of the boundaries of the NE multispecies closed areas, in particular the year round closures, even if current habitat management areas were eliminated, as this would substantially increase in the amount of seabed closed to fishing for some types of gears/fisheries.

[[Page 35409]]

At the January 2011 Council meeting, the Habitat Oversight Committee raised the issue of modifying or eliminating the NE multispecies closed areas via the Omnibus EFH Amendment. At its April 2011 meeting, the Council reviewed available information related to this issue, including how this change in scope would affect the Omnibus EFH Amendment's timeline given other priorities established for 2011, and then voted to expand the scope of the Amendment to consider modifying the NE multispecies closed areas in conjunction with the establishment of any new habitat closed areas.

Following public comment on all alternatives, including any alternatives related to the NE multispecies closed areas as well alternatives to designate EFH and HAPCs, minimize impacts to EFH, and protect deep-sea corals, the Council will select final alternatives and then prepare and submit a final EIS document. It is anticipated that all selected alternatives from both phases of the Omnibus EFH Amendment will be implemented via a single rulemaking. Considering this expansion of scope, the expected implementation date for the Omnibus EFH Amendment will be delayed beyond the previously anticipated date of summer 2012.

Stakeholders are encouraged to submit comments on this change in scope as well as on other issues related to the development of EFH impacts minimization alternatives. Comments are specifically sought on the utility of existing or alternative closures to address the needs of groundfish stocks, as well as on the impacts of changes to the existing closures on groundfish fishing and other activities (such as Special Access Programs, exempted/certified bycatch fisheries, recreational fishing opportunities, endangered or threatened species protection, etc.).

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

Dated: June 13, 2011.

Margo Schulze-Haugen,  
Acting Director, Office of Sustainable Fisheries, National Marine  
Fisheries Service.

[FR Doc. 2011-15152 Filed 6-16-11; 8:45 am]

BILLING CODE 3510-22-P

