

## 8.0 ESSENTIAL FISH HABITAT STRATEGIC PLAN

Recognizing that the Council's Essential Fish Habitat Amendment is just the first step in the management of EFH, and that the Council has more to do to fulfill the intentions and mandates of the Sustainable Fisheries Act, the Council has developed this Strategic Plan. The EFH Strategic Plan explains how the Council will fulfill the regulatory requirement to review and revise the EFH components of its fishery management plans within five years, and also provides a context and structure within which the Council will work. This Strategic Plan addresses the processes and actions of the Council for a five year timeframe following implementation of the EFH Amendment. The Strategic Plan also describes how the Council intends to disseminate the information that results from the EFH process to the federal and state agencies with a direct or indirect role in the conservation and management of EFH, or whose actions or activities have the potential to adversely affect EFH. The Strategic Plan describes how the Council will implement the Magnuson-Stevens Act provision that authorizes the Council to comment to federal and state agencies on actions that may adversely impact the habitat, including EFH, of fishery resources under its authority, and requires the Council to comment on actions that would substantially impact the habitat, including EFH, of anadromous fishery resources under its authority. The Strategic Plan consists of a goal statement for the Council's habitat program, a set of objectives for the Council's habitat program, and a description of the processes that the Council intends to implement to achieve the stated objectives.

**Goal:** Improve the quality and increase the productivity of New England's fishery resources through implementation of the habitat management program.

### **Objectives:**

1. Refine the EFH designations for all Council-managed species by incorporating increasingly detailed information regarding the relative abundance, growth, survival, and production rates associated with different habitat types, including nearshore and estuaries (e.g., Level 3 and 4 information).
2. Designate additional HAPC's, as appropriate, to focus habitat management on areas particularly vulnerable to degradation, important for multiple species or critical to a particularly important life stage.
3. Improve our understanding and predictive capabilities of the effects of fishing activities and non-fishing related activities on EFH.
4. Improve our understanding and predictive capabilities of potential measures to mitigate activities that adversely impact EFH.
5. Develop and implement measures to minimize, to the extent practicable, any adverse impacts associated with fishing activities on EFH.

6. Provide recommendations to federal, state and local agencies and organizations regarding proposed activities with the potential to degrade or eliminate EFH.
7. Improve our understanding and predictive capabilities of methods to restore and enhance productive fish habitat.
8. Develop and recommend to the appropriate authority measures to restore, conserve and enhance productive fish habitat.
9. Evaluate the Council's habitat program on a regular basis.

## **8.1 EFH REVIEW PROCESS**

The regulatory text of the Interim Final Rule directs the Council and NMFS to periodically review the information in the EFH amendment and revise the EFH components of its fishery management plans if new information becomes available. The Interim Final Rule suggests that the schedule for this review should be based on an assessment of both the existing data and expectations of when new data will become available. Based on this guidance, the Council plans to conduct a complete review and update of EFH information and the EFH components of FMPs at least every five years. Rather than resubmitting an omnibus EFH amendment once every five years, however, the Council intends to implement the framework adjustment process described in this amendment and plans to "stagger" the revisions of the components of the EFH amendment as new or additional information becomes available.

The Council has reorganized its yearly schedule of Council meetings into a planned, topical, annual review cycle that allows for the most efficient review of new information and modifications of management. In April of each year, the Council will meet for two days to focus on habitat issues. At this meeting, the Council will review and consider the "Habitat Annual Review Report." This report to the Council will be developed by the EFH Technical Team and reviewed by the Habitat Committee prior to presentation to the Council. The report will include all new information related to the designations of EFH and HAPC, additional information on the effects of fishing activities, and an update on the status of the research and information needs identified by the Council. The Council will decide on a course of action based on the information provided in the report and direct the appropriate oversight committees to develop management measures necessary to protect HAPC and particularly vulnerable EFH. Depending on the issue and the relevant committee, proposed framework adjustment measures addressing EFH will be brought to the Council at either the July (herring), September (scallops), or November (groundfish and monkfish) meetings. Framework adjustments to modify the boundaries of EFH or HAPC could be brought to the Council by the Habitat Committee as early as the May Council meeting.

To support this process, the EFH Technical Team will meet on a regular basis throughout the year and will identify the information needed to prepare the annual report. The

Council will request that NMFS and other appropriate agencies provide the required habitat-related information in a timely manner. The EFH Technical Team will meet to discuss the information and develop recommendations to the Council regarding the information and suggested changes to the EFH and HAPC designations. The EFH Technical Team will also review any additional information available on activities that adversely impact EFH. Council staff will then develop the "Habitat Annual Review Report" and, following review by the EFH Technical Team and the Habitat Committee, submit the report to the Council for review and consideration. The annual review by the Council will focus on three areas: (a) EFH and HAPC designations; (b) identification of threats to EFH; and, (c) management measures to protect EFH.

#### **8.1.1 EFH and HAPC Designations (Objectives 1 and 2):**

In order to refine and improve the designations of EFH for all Council-managed species and to ensure that the appropriate areas are designated as HAPC's, the Council will work with NMFS and its other partners (state fishery agencies, state coastal zone management agencies, Stellwagen Bank National Marine Sanctuary, NOAA's National Ocean Service, National Undersea Research Center, etc.) to obtain and evaluate additional data sets (NMFS landings data, state inshore surveys, National Estuarine Research Reserve surveys, university research, power plant surveys, etc.). The Council will also work with the fishing industry to identify and evaluate additional information on important habitat areas. Using information from these various sources, the Council will work to refine the inshore EFH designations to a finer scale than the use of the ELMR salinity zones currently allows.

The Council will also consider the designation of HAPC's, as appropriate, based on the HAPC criteria described in the Interim Final Rule, and where the quantity or quality of a particular habitat type or area is directly linked to an ecological bottleneck for one or more species. The designation of HAPC's will extend, as appropriate, to areas or habitat types that are EFH for a vulnerable life stage of a significant number of Council-managed species or group of Council-managed species (i.e., flatfish, *Gadidae*, etc.). The Council may also participate in other activities focused on acquiring new and additional information necessary to meet the Council's EFH objectives. These activities may include workshops to develop the Council's priority research topics for improving EFH designations. The refinements of EFH and HAPC designations will depend to a large extent on the availability of the research and information proposed in the research and information needs section of the amendment.

#### **8.1.2 Identification of Threats to EFH (Objective 3):**

In order to better understand the adverse impacts of fishing and non-fishing related activities on EFH and to improve the Council's ability to predict threats to EFH, the Council will work with NMFS and its other partners (state fishery agencies, state coastal zone management agencies, Stellwagen Bank National Marine Sanctuary, NOAA's National Ocean Service, National Undersea Research Center, etc.) to obtain and evaluate the results of ongoing and future studies regarding the effects of various activities on EFH.

The Council may also participate in other activities focused on acquiring new and additional information necessary to meet the Council's EFH objectives. These activities may include workshops to develop the Council's priority research topics for identifying threats to EFH.

#### **8.1.3 Management Measures to Protect EFH (Objectives 4 and 5):**

The Council will work with NMFS and its industry advisors to develop and implement measures to minimize, to the extent practicable, the adverse impacts associated with fishing activities on EFH. The Council will also develop recommendations for other agencies (Mid-Atlantic Fishery Management Council, Atlantic States Marine Fisheries Commission, and state fishery agencies) to evaluate and minimize the effects on EFH of fishing activities under their jurisdiction.

#### **8.1.4 Five-Year Plan (Objectives 1 - 5 and 9):**

In year one (1999), it is not expected that much new information will be available to allow the Council to refine its EFH designations on a broad scale, but there may be additional information for Council consideration regarding some inshore areas, especially bays and estuaries. The Council may consider additional information regarding potential areas for HAPC designation. There also may be information for Council consideration regarding minimizing the adverse impacts to EFH or HAPC associated with certain types of fishing activity. The Council will implement any of these changes via the framework adjustment process.

In year two (2000), it is expected that the Council will review new and additional information with the goal of refining the EFH designations for several species, as well as considering information regarding minimizing the adverse impacts to EFH or HAPC associated with certain types of fishing activity. The specific species to be considered by the Council will remain indeterminate until the information becomes available.

In years three, four and five (2001 - 2003), the Council will review new and additional information with the goal of refining the EFH designations for the remaining species, as well as considering information regarding minimizing the adverse impacts to EFH or HAPC associated with certain types of fishing activity. During this time, the Council will also evaluate its habitat program and make changes to the program and this plan as appropriate.

### **8.2 CONSULTATION AND AGENCY RECOMMENDATIONS (OBJECTIVES 6, 7, AND 8):**

The Magnuson-Stevens Act requires federal agencies to consult with NMFS regarding any of their actions authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken that may adversely affect essential fish habitat. Upon approval of this EFH amendment by the Secretary of Commerce, federal agencies are required to complete this

consultation process. The Council is encouraged to establish procedures for reviewing federal and state actions that may adversely affect the EFH of any species managed under its authority, and the Council and NMFS will cooperate as closely as possible to identify actions that may adversely affect EFH, to develop comments and EFH conservation recommendations to federal and state agencies, and to provide EFH information to federal or state agencies.

The Council will fulfill its obligation under the Magnuson-Stevens Act regarding the EFH consultation process. When requested by the Regional Administrator, the Council will review the appropriate information and comment on activities that threaten EFH. The Council recognizes it has the authority to act independently, and there may be situations where the Council deems this necessary. In these cases, it will review the appropriate information and provide recommendations directly to the appropriate state or federal agencies. The Magnuson-Stevens Act requires that the Council review and comment on any activity which is likely to substantially affect the habitat of any anadromous fishery resource under its authority. In addition to Atlantic salmon, this includes species such as river herring, striped bass, and American shad. The Council plans to work closely with NMFS, U.S. Fish and Wildlife Service, the states, and the Atlantic States Marine Fisheries Commission to meet this obligation.

The Council and the NMFS Northeast Regional Office have developed an informal procedure for coordination in the review of federal agency actions that could adversely affect habitat. This is based on a procedure that has been in effect for several years between NMFS and the Mid-Atlantic Fishery Management Council (MAFMC) and has promoted successful collaboration on development projects of concern to both MAFMC and NMFS. Under this process, NMFS Habitat Conservation Division staff notify Council staff when NMFS learns of an action that could cause substantial adverse effects to the habitat of Council-managed species. NMFS reviews most actions that are authorized, funded, or undertaken by federal agencies in coastal and offshore waters, and federal agencies have been required to coordinate with NMFS on these projects under the Fish and Wildlife Coordination Act, so NMFS has an established mechanism for learning about projects that would adversely affect federally managed species.

Once Council staff are contacted by NMFS, they will request project-related documents from NMFS and may schedule a briefing on the activity at an upcoming Habitat Committee meeting. After the briefing, the Habitat Committee will consider adopting a motion for the Council to send a letter of concern to the appropriate parties. The Habitat Committee will then bring the issue to the full Council for approval. In the event that comment deadlines do not allow for the issue to be considered at a Committee and Council meeting, the Council Executive Director may send a letter of concern after coordination with the Habitat Committee chair and/or Council chair. To help NMFS provide information to the Council in the most efficient manner possible, the Council may work with NMFS to develop criteria to help NMFS identify the activities in which the Council is most interested. These criteria may take the form of an agreement with the NMFS Northeast Regional Office to promote coordination in the review of activities that may adversely affect EFH.

The Council will work with the appropriate federal, state, and local agencies and organizations to implement habitat conservation, restoration and enhancement measures and mitigate the effects of non-fishing related activities.

### **8.3 INFORMATION DISSEMINATION (OBJECTIVES 6 AND 8):**

The Council will make every effort to provide up-to-date EFH information to all state and federal agencies whose actions or activities have the potential to adversely affect EFH. The Council plans to provide and explain the information in the EFH amendment (and future updates) to federal, state, and local agencies and organizations. To accomplish this, the Council will send copies of its EFH amendment to all federal and state agencies with a direct or indirect role in the conservation and management of EFH. The Council will also send letters to these agencies highlighting the habitat conservation, restoration, and enhancement recommendations of the Council to the agency. To ensure that the agencies understand the nature and purpose of the recommendations and the EFH designations, as well as to provide details on the nature of the consultation process, the Council and NMFS will visit each New England state and invite state and federal agencies to attend a meeting to present the relevant EFH information and recommendations as well as to answer questions and attempt to develop a working relationship with the agencies.

In order to make the information contained in the EFH amendment useful, accessible, and easy to understand by state and federal agencies and organizations, the Council will work with NMFS and other potential partners (i.e., National Ocean Service, NOAA's Coastal Services Center, Island Institute, etc.) to develop a CD-ROM based computer product that supports a complete desktop EFH information system. This product could include an interactive mapping capability, such as ArcView, to allow users to quickly and easily determine if particular area(s) are EFH, and for what species. This product would allow users to access quickly the information supporting the EFH designations and it could include the species reports and information on impacts, etc. The development of this product would be targeted at the state and federal agencies interested in reviewing projects for potential impacts to EFH, but it could also be useful to others as an information tool. The Council may also participate in public events (i.e., Maine Fishermen's Forum, Coastal Zone conferences, etc.) to promote the conservation and enhancement of EFH.

### **8.4 EFFECTIVENESS MONITORING (OBJECTIVE 9):**

The NMFS Office of Habitat Conservation is currently developing a computerized tracking system for the EFH consultation process. The system is based on a relational database that will contain information on each federal or state agency action on which NMFS comments regarding impacts to EFH. NMFS staff will enter data such as the project name, location, type of action, agency authorizing or conducting the work, managed species affected, habitat types affected, date consultation was initiated, type of consultation, EFH conservation recommendations provided by NMFS, whether a Council

commented on the action, date of the federal action agency's response, and whether the action agency accepted all, some, or none of NMFS' recommendations. NMFS will use this information to monitor the EFH consultation workload as well as the responsiveness of action agencies to NMFS' recommendations to protect EFH. The system is based on Lotus Notes software, and will allow frequent updates of data entered at NMFS headquarters, Regional Offices, and field offices, so consultations can be tracked by region, coast wide, or nationally. The system will also allow queries to monitor consultations with certain agencies or those that involve specific species, types of actions, etc.

The Council will strive to assess the effectiveness of its habitat program, including relating EFH activities, to the extent possible, with improvements in fisheries. This will, by necessity, be limited to a qualitative assessment. Whatever the apparent effectiveness of the Council's habitat program may be, there will always be many other factors that might contribute to the observed effects.