

ADDENDUM

To Amendment 10 to the

Sea Scallop Fishery Management Plan

**DESCRIPTION AND RATIONALE OF THE
JOINT ADVISORY PANEL RECOMMENDATIONS 1-9
FOR POTENTIAL HABITAT CLOSURE ALTERNATIVES**

**Prepared by the
New England Fishery Management Council
National Marine Fisheries Service**

Date Submitted: _____, 2003

Executive Summary

This Addendum is intended to describe the nine recommendations from the Joint Advisory Panel Representative's Meeting (Feb 6-7, 2003). At its March 6, 2003 meeting, the New England Fishery Management Council (NEFMC) selected the following range of habitat alternatives as preferred alternatives to fulfill requirements of the December 5, 2001 joint stipulation and order under American Oceans Campaign v. Donald Evans: Habitat Alternative 2 – Complementary benefits of other Amendment 10 Alternatives and Habitat Alternative 6 – Closed areas consistent with the Framework Adjustment 13 scallop closed area access program. Additionally, the NEFMC voted to include recommendations 1-9 from the Joint Advisory Panel Representative's Meeting (Feb 6-7, 2003) as the basis for another preferred habitat alternative.

The Council was informed from staff and legal counsel that it was too late to incorporate a preferred habitat alternative into the Amendment 10 DSEIS that was not already analyzed in the document. Because the analysis is incomplete, and these recommendations are not yet fully developed, it should not be included as an individual habitat alternative in Amendment 10. The Council also selected this alternative as one of the preferred habitat alternatives in the DSEIS for the EFH components of Amendment 13 to the Multispecies FMP, thus the Council is interested in receiving public comment on these recommendations in the Amendment 10 process as well since the fisheries overlap. Although the Council had not defined the alternative and analysis was unavailable for the Amendment 10 DSEIS, the Council wanted to include the Joint Advisory Panel Recommendations (or related alternative identified before public hearing) in the material for comment at the Amendment 10 public hearings. The Council wanted to identify the Joint Advisory Panel Recommendations (JAR's) as preferred to get adequate attention during the public comment period. Therefore, this addendum describes the panel recommendations although they are not fully developed or analyzed in time for Amendment 10, but will be ready for Amendment 13 and would apply to fishing gears that impact groundfish EFH, including scallop fishing gear. Since at the time of filing of the Draft Amendment 10 DSEIS, the JAR alternatives were not fully identified or analyzed, the Council will provide material at public hearings for public comment, but the Council will be unable to choose the JAR alternative(s) in Amendment 10. Further discussion, analysis, and opportunity for public comment will be available when the Council submits Draft Amendment 13 to the Northeast Multispecies FMP.

Joint Advisory Panel Recommendations 1 – 9

The Chairs of the Groundfish, Scallop and Habitat Advisory Panels conducted a Joint Advisors meeting on February 6 and 7, 2003. Overall, the group came up with nine recommendations (JARs 1-9) for the Council to consider when reviewing the habitat alternatives in Amendment 10 and Amendment 13.

- JAR 1 - Recommend that the Habitat Technical Team analyze a modification to the Cod HAPC in Closed Area II
- JAR 2 - Recommend that the existing Western Gulf of Maine (WGOM) closure remain as it is currently configured, or that the Habitat Technical Team examine the impacts of a modification to it's eastern boundary
- JAR 3 - Recommend that the Habitat Technical Team look at the Multi-beam research in more detail to determine if the WGOM closure should be defined more accurately to contain only the sensitive habitat types intended for closure
- JAR 4 - Recommend that the Habitat Technical Team analyze a modification to the Cashes Ledge habitat closure and include a closure proposed for Jeffrey's Bank
- JAR 5 - Recommend that the Habitat Technical Team analyze a modification to the Nantucket Lightship closed area
- JAR 6 - Recommend that the Council recognize that the Great South Channel is an important "hot spot" for a variety of species and sediment types, but also that this area is very important to numerous fishing industries and should not be closed
- JAR 7 - Recommend that the Habitat Technical Team analyze a modification to Closed Area I

- JAR 8 - Recommend that if the Council approves to implement a habitat closed area, it should have a sunset period of no longer than ten years. After that date, the habitat closure should expire, unless the review suggests that the area should remain closed for habitat purposes.
- JAR 9 - Recommend that the Council seriously consider a VMS requirement for the entire fleet if that would help implement smaller, more refined closed areas for mortality and habitat protection

List of Figures

Figure 1 - Chart of Closed Area II with suggested modification from the Joint Advisors Meeting5

Figure 2 - Western Gulf of Maine closure with suggested modification from the Joint Advisors Meeting .7

Figure 3 – Suggested modifications to the Cashes Ledge closure and inclusion of a habitat closure on Jeffrey’s Bank.....9

Figure 4 – Nantucket Lightship closure with suggested modification from the Joint Advisors Meeting ... 11

Figure 5 – Closed Area I with suggested modification from the Joint Advisors Meeting..... 13

Figure 6 – Combination of all the suggested modifications from the Joint Advisors Meeting. It was not the intent of this group to combine all the recommendations into one alternative..... 14

Description and Rationale for the Joint Advisory Recommendations

- **JAR 1 - Recommend that the Habitat Technical Team analyze a modification to the Cod HAPC in Closed Area II**

Advisor Rationale: The group first discussed Closed Area II, and the Habitat Alternatives associated with this area (8a and 8b). Alternative 8a is the existing Cod HAPC, and Alternative 8b extends those boundaries to the west for habitat purposes (this alternative does NOT change the HAPC definition)(See Figure 1). A few Advisors pointed out that the extension to the west does contain some important cod and haddock areas, as well as important fishing grounds. Survey data suggests that young of the year cod are in the HAPC in the summer near the rocky bottom that is along the Northern edge boundary. However, it was brought up that this area contains cod seasonally only, while it contains a significant amount of scallops all year round. It was suggested that a seasonal closure might be more appropriate. It was identified that there is a significant amount of sensitive habitat in the middle of the HAPC, but it should be noted that this habitat changes dramatically after big storms. One Advisor suggested that the Council and the public have to become more aware of the fact that these areas are changing all the time, and storm impacts have more adverse impacts on EFH than we currently understand. The group explored the idea of moving the existing boundary of the Cod HAPC to the South to include more diverse sediment types that are there, and allow scallop access in the north of the Cod HAPC. Some groundfish fishermen stated that the northern boundary enclosed area deeper than 50 fathoms that does not contain important cod or scallop habitat. Some members of the group argued that this modification is more practical, because it still protects important habitat to the south, but allows access to the north; a true balance of conflicting demands on the area. The scallop industry members present identified the areas where the scallop resource was greatest, and the line was drawn directly south of that boundary. The groundfish industry members present identified how far south groundfish spawning areas existed, and the southern boundary was drawn there. However, a few Advisors were hesitant to allow access in the northern part of the existing Cod HAPC because that area has been identified as important for cod spawning. It was also pointed out that there is a significant amount of lobster gear (approximately \$20 million in gear) that is worked in the southwest portion of the Cod HAPC, and that would have to be permitted to continue.

The group identified that there are scallops in the northern part of CAII to about the 50-fathom curve. The industry members present identified that the new proposed closure is made up of mostly gravel with sand fingers. The lower portion was also identified as an important spawning ground for cod in the winter; in fact this area is still referred to as the “winter fishing ground” on nautical charts. There was general agreement that the northern boundary of the Cod HAPC is too high, and if it were moved to the south, more benefit would be generated for cod and other groundfish species that live there. There was not complete consensus on this modification; pros were that it would contain more historic spawning areas and provide access for the scallop industry in the north, the primary con was that juvenile cod found in the north of the existing HAPC would be subject to disturbance. In general, the group was not worried about the habitat impacts of herring and lobster gear, but some members recommended that this modification go forward as a Level 2 closure. Furthermore, the majority of the group was not concerned about the habitat impacts of the recreational fleet in offshore areas like this, but very concerned about their impact on inshore areas.

This modification could potentially impact habitat alternatives 3a, 3b, 4 8a, and 8b.

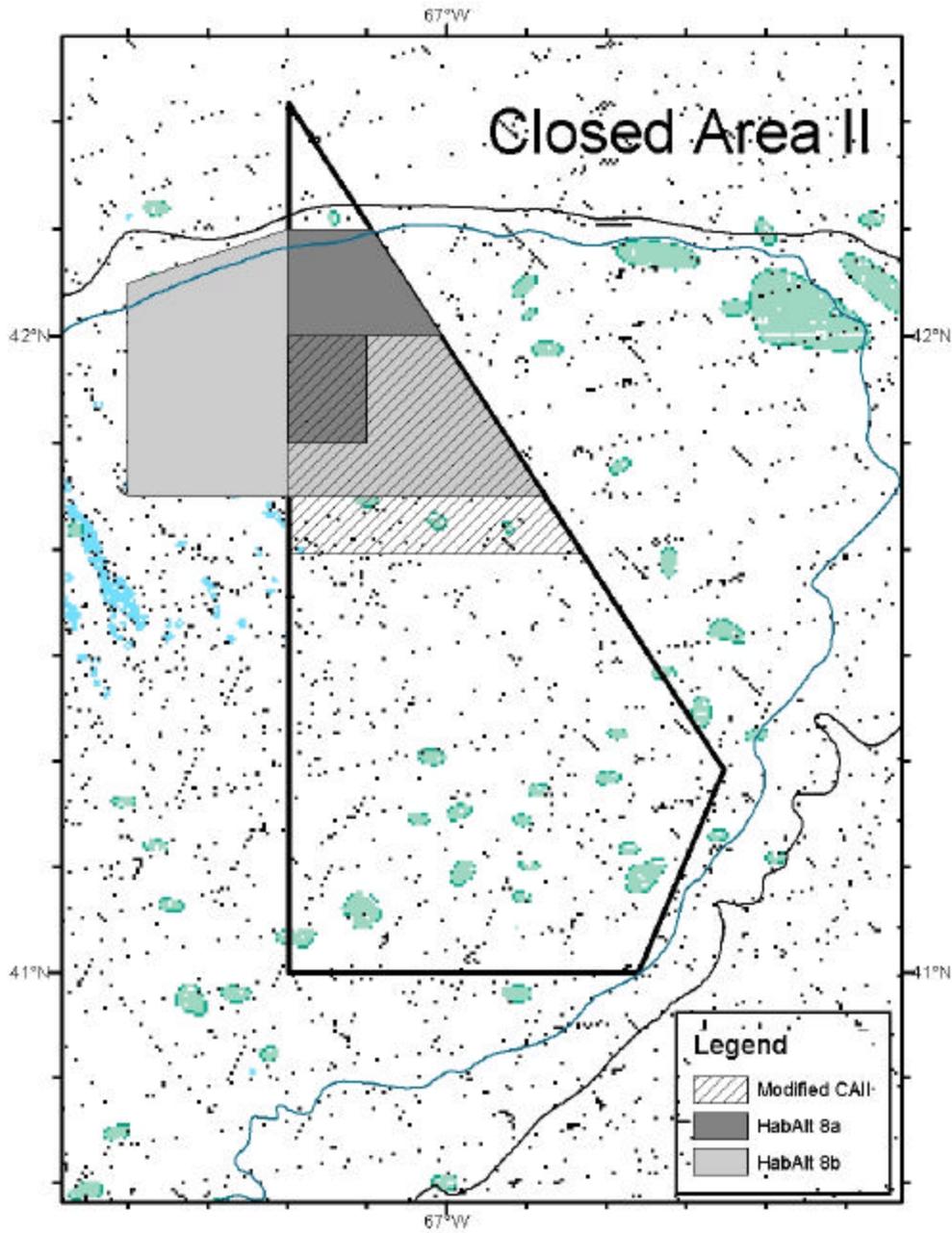


Figure 1 - Chart of Closed Area II with suggested modification from the Joint Advisors Meeting

- **JAR 2 - Recommend that the existing Western Gulf of Maine (WGOM) closure remain as it is currently configured, or that the Habitat Technical Team examine the impacts of a modification to it's eastern boundary.**

Advisor Rationale: After identifying the habitat types and species that live in different parts of the WGOM closure, the group came up with several overall recommendations. Overall, the majority of the group supports leaving the boundaries the way they are. The new boundaries proposed in some of the habitat alternatives seem hard to enforce, and the industry would not gain much from the areas that would open. One suggestion was to modify the proposed habitat closure for the WGOM by removing the proposed “bulge” to the west and modifying the eastern boundary to come straight down the 70°W line instead of the irregular boundary proposed in habitat alternatives 3a, 3b, and 4 (See Figure 2). The main rationale behind this modification is that the closed area would be easier to enforce and there are resources in the eastern portion of the closure that should be available to fishermen. Furthermore, the important areas for habitat are along the western boundary. Enforcement individuals present urged the group to identify how critical enforcement of the area is, and if enforcement of the closure is a high priority then VMS should be required for all fishing vessels in the region. The group recommends that this modification should be a Level 4 closure to permit existing activities such as lobster, hagfish, herring and shrimp fishing. There is a substantial amount of lobster gear in this area, and the group was concerned about where that effort would shift if the WGOM became a Level 1 closure.

There was one suggestion that the bulge out could be closed to mobile gear only, but some industry members in the audience felt that was socially unfair, and stationary nets can catch significant amount of juvenile fish. One fisherman pointed out that the closed areas we have today were selected for a reason, and the most important areas to close have been identified already. The “bulge” is the last place with hard bottom available that gillnetters can go to avoid cod discards. If all the deep areas are closed to fishing then there is nowhere to go to avoid cod bycatch. It was also pointed out that this area is close to Gloucester, and this port depends on this area heavily. On the other hand, one researcher in the audience pointed out the “bulge” does provide a lot of opportunity for research, and this should be kept in mind when discussing where to identify areas for habitat research. One member of the Groundfish Advisory panel suggested that maybe the “sliver” within the WGOM closure should be identified as a Level 1 closure for research purposes. However, there was not full support of this idea among the group.

This modification could potentially impact habitat alternatives 3a, 3b, and 4.

- **JAR 3 - Recommend that the Habitat Technical Team look at the Multi-beam research in more detail to determine if the WGOM closure should be defined more accurately to contain only the sensitive habitat types intended for closure.**

This group also supported the need for more multi-beam mapping of the ocean floor, perhaps starting with the Stellwagen Bank Area.

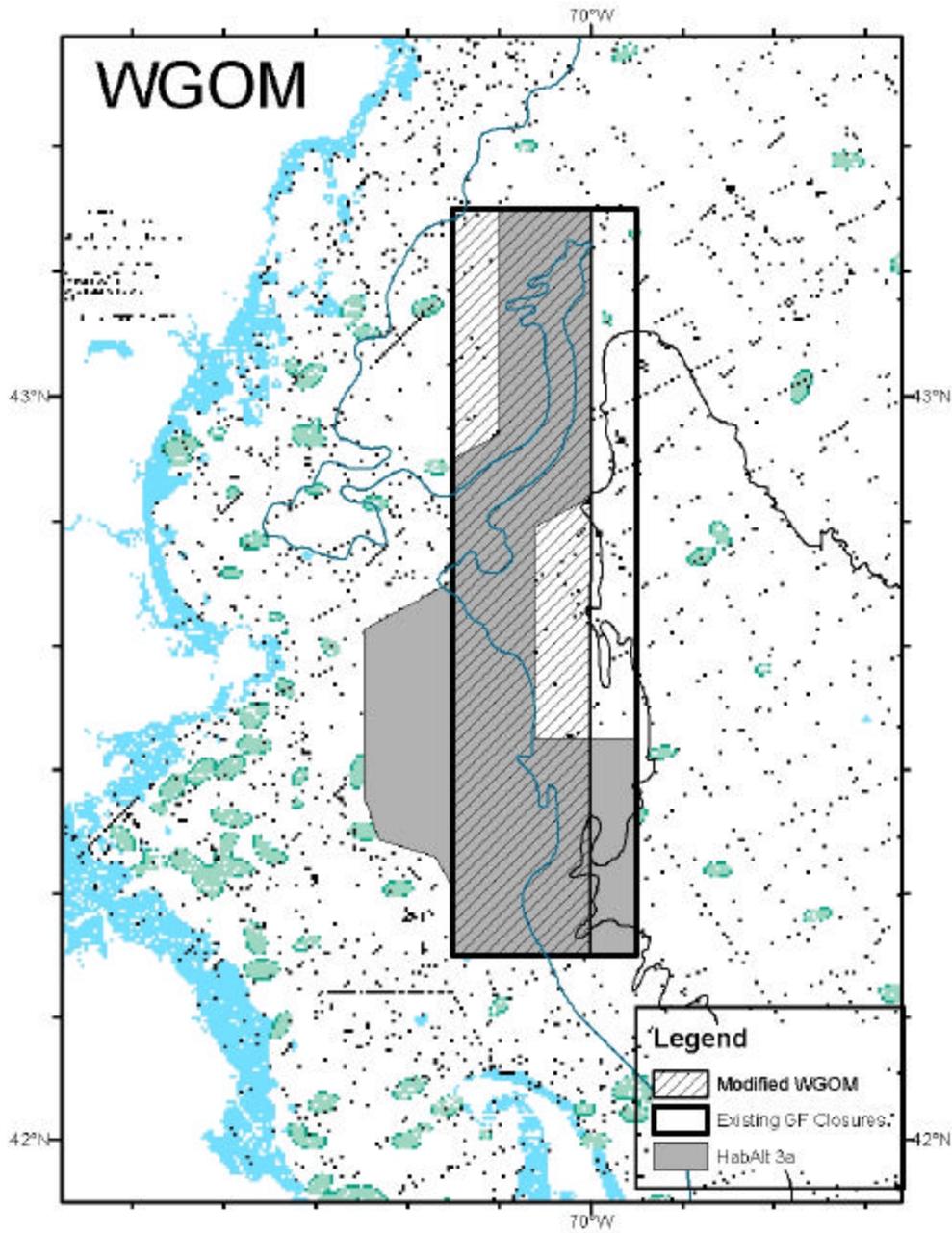


Figure 2 - Western Gulf of Maine closure with suggested modification from the Joint Advisors Meeting

- **JAR 4 - Recommend that the Habitat Technical Team analyze a modification to the Cashes Ledge habitat closure and include a closure proposed for Jeffrey's Bank.**

Advisor Rationale: Within the habitat closed area alternatives there are several alternatives that propose a specific habitat closure on Cashes Ledge and Jeffrey's Bank (Alternatives 3a, 3b, and 4). The group agreed that the closure on Jeffrey's should remain, but it should be a Level 4 closure. The habitat types in this area were identified to be mixed rock and mud, no sand. The majority of the group agreed that herring and shrimp activities in this area should be permitted to continue. It was pointed out that if this area was deemed a Level 4, then the habitat Technical Team will have to evaluate the gears used in that area, and determine whether they are adversely impacting the bottom or not. The group recommended that the gears that are permitted there now should be permitted access to the Jeffrey's Bank closure. The group agreed that there should be a Level 1 closure on Cashes to protect the rare kelp beds that are found in that area, but the closure should be modified to the 42°45W line. The southern boundary should be moved up, because the deeper area to the south does not contain kelp and should be assessable for fishing. Figure 3 below depicts the modified closure option

This modification could potentially impact habitat alternatives 3a, 3b, and 4.

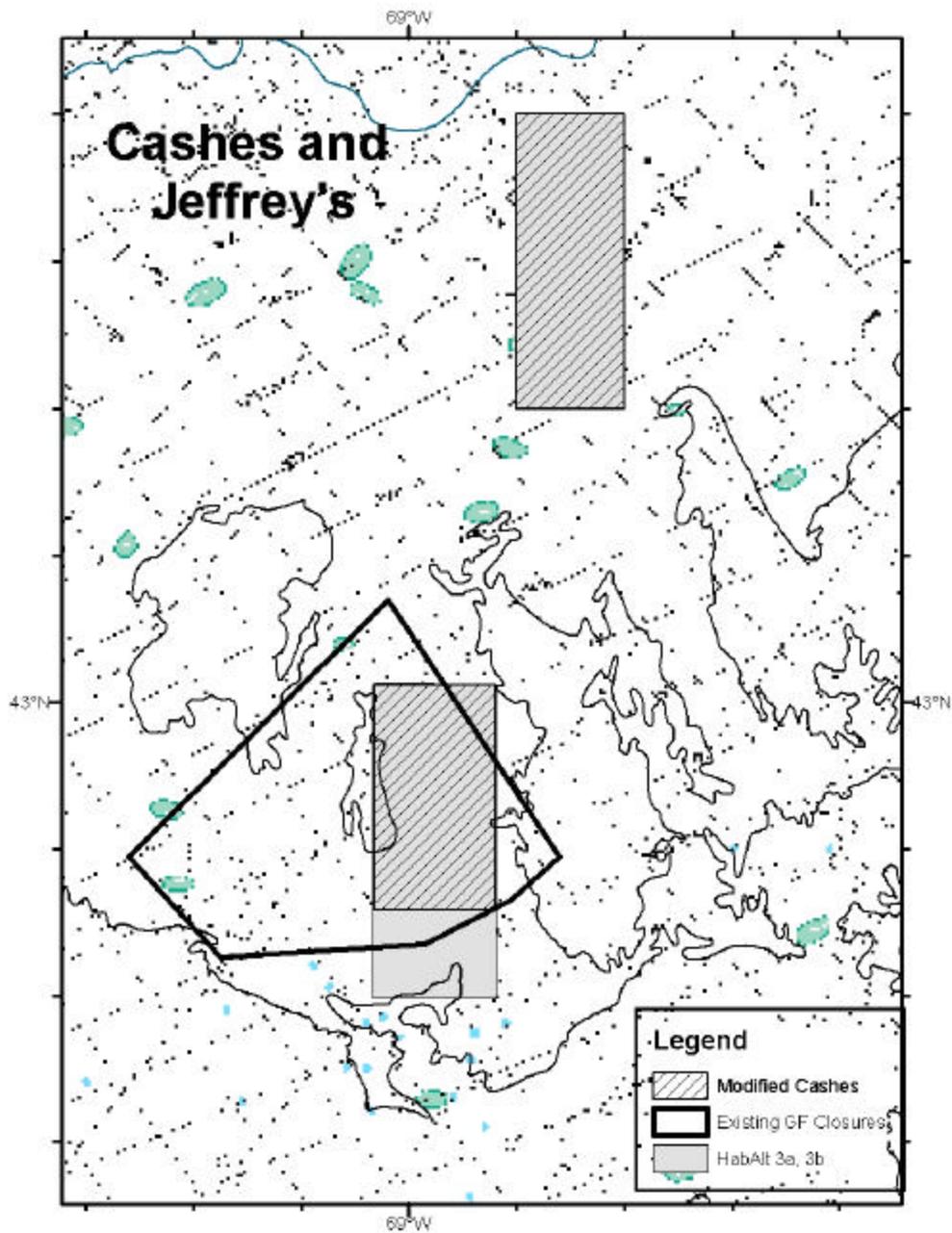


Figure 3 – Suggested modifications to the Cashes Ledge closure and inclusion of a habitat closure on Jeffrey's Bank

- **JAR 5 - Recommend that the Habitat Technical Team analyze a modification to the Nantucket Lightship closed area.**

Advisor Rationale: There is a problem with identifying a habitat area in the Nantucket Shoals area because there is no data for this area. The bottom is very complex, so most surveys and fishermen stay out of this area. But the majority of the audience agreed that this area has diverse sediment types and is important for the protection of small fish. An area was suggested just north of the Nantucket Lightship closed area to be closed primarily to protect the habitats that small fish depend on. As a modification to the existing Nantucket Lightship closed area, the group suggested the area shaded in Figure 4. A benthos map completed roughly in the 1960s showed that most of the concentrations of benthos in this area was contained in the central portion of the Nantucket Lightship area. Although this area is mostly sand, it contains many species. It was also suggested that the area be extended below the existing boundary of the Nantucket Lightship area to help protect tilefish and monkfish EFH. If all three components of this closure (the new portion to the north, the middle of the Nantucket Lightship area, and the proposed area to the south) were included, it would contain a diversity of sediments and species. The group felt that since the Mid-Atlantic Council has not identified closed areas as necessary for protection of tilefish EFH, then this closure might be unnecessary. It was also suggested that this area could be a multi-level closure; for example the top portion could be closed to different gear types than the southern portion. Overall, the area to the south did not get widespread support, so the other two recommended areas for analysis are shown in Figure 4. There was not consensus about the level of closure for this area because there is significant hook gear that works in this area, and it has been argued that this gear does not adversely impact the bottom.

This modification could potentially impact habitat alternatives 3a, 3b, and 4.

- **JAR 6 - Recommend that the Council recognize that the Great South Channel is an important “hot spot” for a variety of species and sediment types, but also that this area is very important to numerous fishing industries and should not be closed.**

Advisor Rationale: There was agreement among the fishermen at the meeting that the proposed habitat closure between Closed Area I and the Nantucket Lightship Area was unacceptable. They commented that this is a major fishing area for a variety of species, and would displace effort to even more sensitive habitats. A representative from the scallop industry explained that the majority of scallops that are not locked up in the existing closed areas are in this area, and if more of the channel area was closed to the scallop fleet, the industry may as well shut down. One Advisor pointed out that the Habitat Technical Team was originally charged to identify alternatives that would better protect habitat by closing areas near or adjacent to existing areas. This was identified as the wrong approach to take, and that these alternatives are arbitrary because the closed areas were based on where you should look, and not where the most important habitat areas are. He went on further to explain that this irregular shaped area, which is part of Alternative 3a, 3b, and 4, may have been identified because it is in between two existing closures, and may not provide the best habitat protection. The area is too large and the sediment types in this area are not that fragile. In addition, it was pointed out that there is a lot of ocean upwelling and strong tides in the channel that impact habitat irrespective of fishing gear. Many people in the room would prefer to look at area closures that are more “habitat driven”, but recognize that it is late in the process to do that and difficult to do when we have existing closed areas for mortality.

This modification could potentially impact habitat alternatives 3a, 3b, 4, and 7.

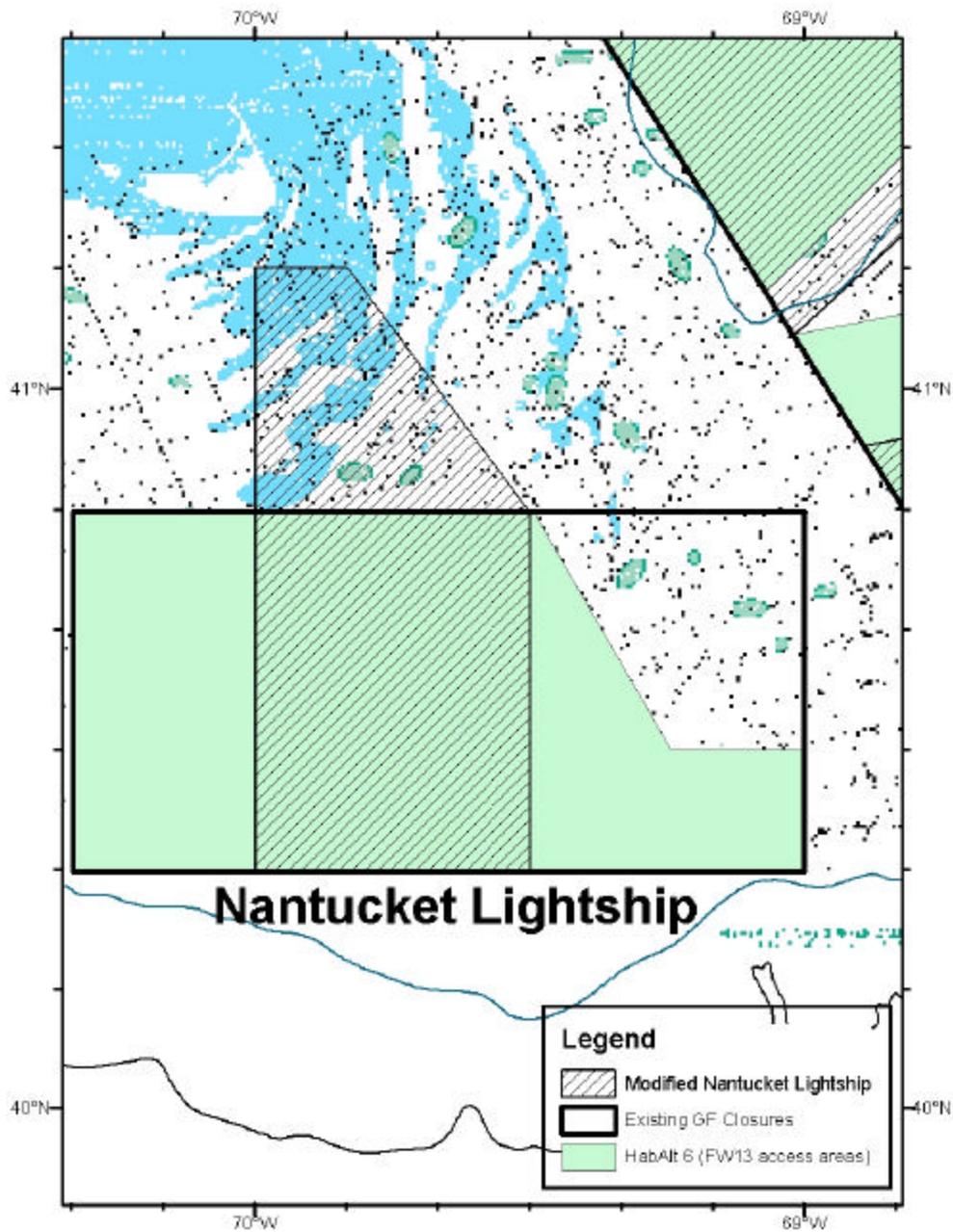


Figure 4 – Nantucket Lightship closure with suggested modification from the Joint Advisors Meeting

- **JAR 7 - Recommend that the Habitat Technical Team analyze a modification to Closed Area I**

Advisor Rationale: It was reported that Closed Area I does a lot for haddock, and is the primary reason haddock are recovering today. In general, it was concluded that CAI does not provide much benefit for cod. The group identified that a lot of CAI is sand, but there are diverse sediment types scattered within the area. The northwestern portion was identified as an important spawning area for cod in February in the deeper parts of that section. The “hambone”, and areas around it in the southeastern portion of CAI was identified to contain the most complex bottom in the closed area. The scallop industry explained that they area able to catch scallops with a relatively low bycatch in the central portion of CAI from October to February. Industry members explained that when Closed Area I was implemented, fishing activity was displaced to the west, and if that area is now closed for habitat, fishing will be displaced again to the west, which is actually on even harder bottom. Most fishermen would prefer to fish on less complex bottom, but sometimes those areas are not accessible to them.

There was support for Habitat Alternative 6, but the group did have a suggestion of how to modify this closed area to better protect cod spawning areas. It was identified that the northern part of the Framework 13 scallop access area in the middle of CAI has important habitat for cod spawning. Therefore, if the Framework 13 scallop access area was shifted downward, then the cod could gain protection in the north for spawning, and the scallop industry could still gain access into the closed area. Figure 5 below shows the shift that the group recommends.

This modification could potentially impact habitat alternatives 3a, 3b, and 4.

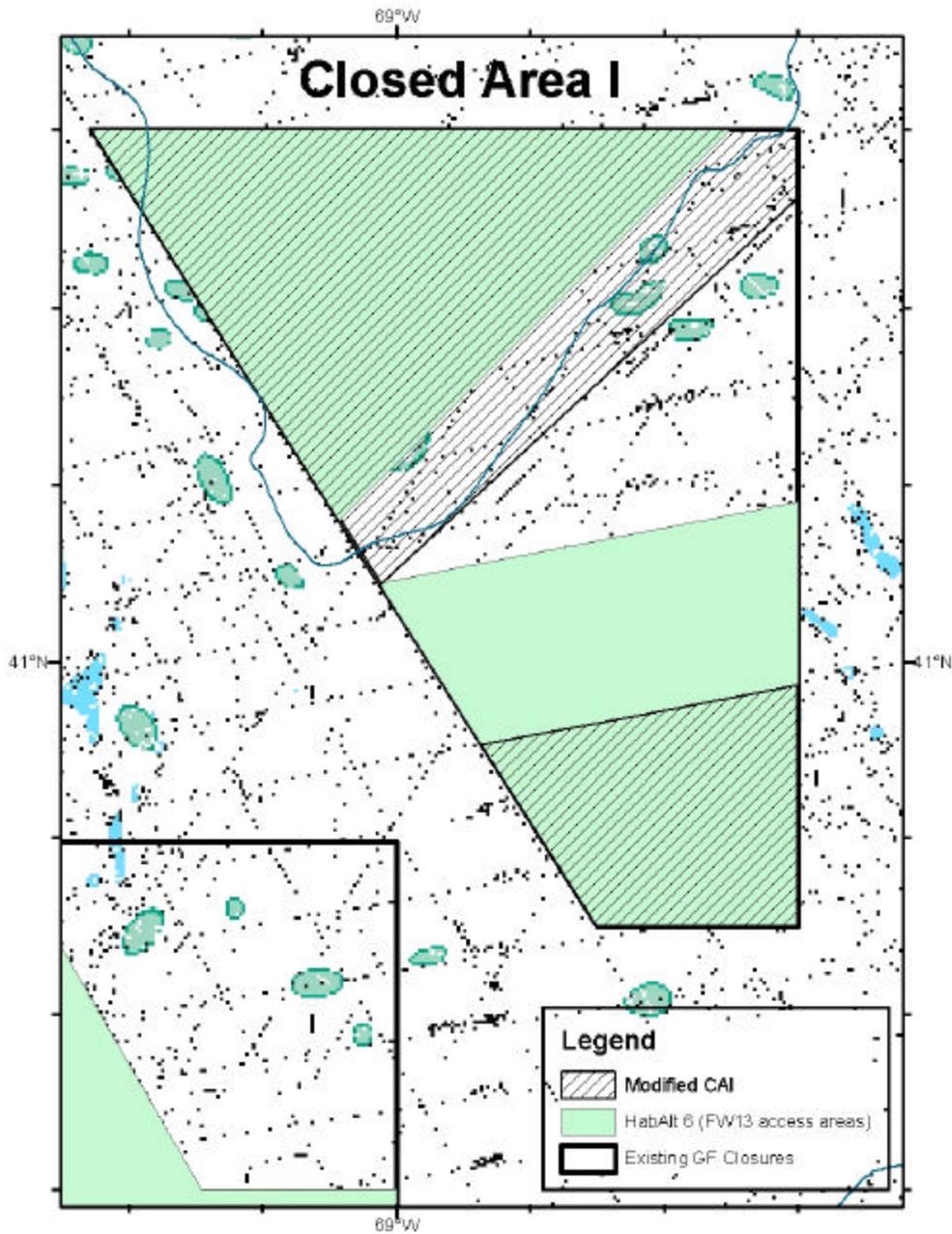


Figure 5 – Closed Area I with suggested modification from the Joint Advisors Meeting

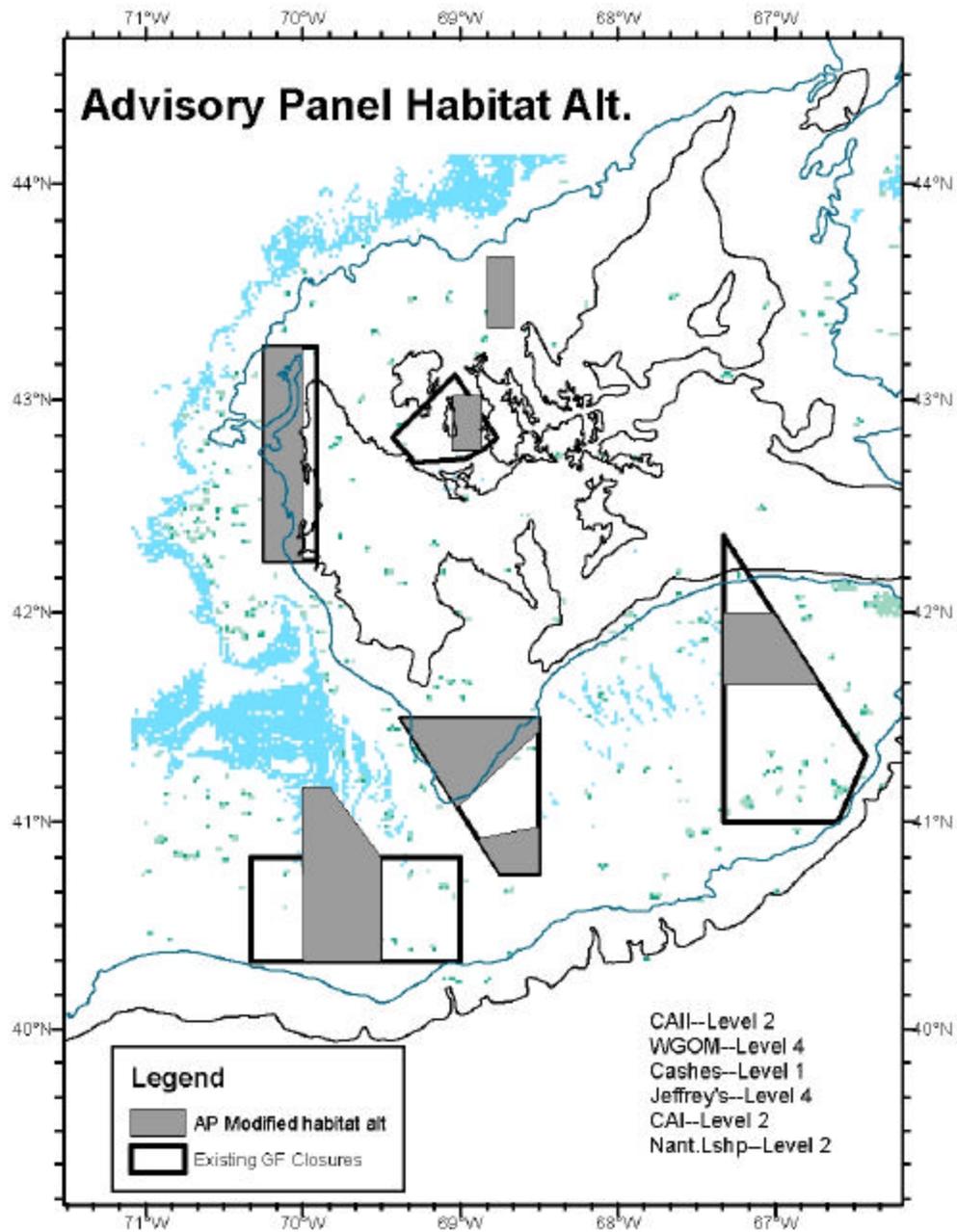


Figure 6 – Combination of all the suggested modifications from the Joint Advisors Meeting. It was not the intent of this group to combine all the recommendations into one alternative.

- **JAR 8 - Recommend that if the Council approves to implement a habitat closed area, it should have a sunset period of no longer than ten years. After that date, the habitat closure should expire, unless the review suggests that the area should remain closed for habitat purposes.**

Advisor Rationale: There was general support for the idea that any habitat closed area should be reviewed, and not be implemented as a permanent closure. The range of 5-10 years was suggested as a reasonable amount of time to go back and evaluate the habitat benefits of an area, and make modifications to the area if necessary. One Advisor brought up that there is nothing currently in the regulations of Amendment 10 and Amendment 13 that suggests that the closures are permanent, "we need to focus on "minimizing" impacts only; that is what we are required to do". In general, the group would prefer if the areas automatically opened after a certain amount of time, unless research showed that keeping them closed was necessary. However, there was strong opposition to automatically opening these areas from a few Advisors present. One Advisor suggested that to be precautionary, the areas should remain closed unless a review shows that they should be opened or adjusted.

- **JAR 9 - Recommend that the Council seriously consider a VMS requirement for the entire fleet if that would help implement smaller, more refined closed areas for mortality and habitat protection.**

Advisor Rationale: The requirement of VMS on all fishing vessels was discussed at length. The group recognized the high cost to the industry, but it was also pointed out that if VMS could mean smaller habitat and mortality closed areas, then the majority of the group would support a VMS requirement for all vessels in the region. One industry member pointed out that in the long-term it might be better for fishermen to bear the cost of having VMS rather than having such large closed areas. It was pointed out however, that if VMS were required for all vessels, than the enforcement resources to process all that information would increase dramatically. Overall, most people in the room would support 100% VMS coverage in an effort to fine tune closures. One fisherman commented that, "the long-term economic benefit for an individual is better if they get more rational access, and uniform enforcement on all vessels in the area is a good idea." A few individuals in the audience have already begun working with new power systems that are cheaper, and commented that, "If VMS is required, fishermen will quickly figure out a way to run the devices more efficiently."