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

March 10, 2011
Portsmouth, NH

Committee members:	David Preble (chair), David Goethel, Mark Gibson, Doug Grout, Terry Stockwell, Lou Chiarella, Gene Kray, Sally McGee
Other Council members:	Jim Odlin
PDT members:	David Stevenson (NERO), Katherine Richardson (NERO)
Council staff:	Chris Kellogg, Talia Bigelow
Others:	Approximately 12 additional audience members, including some habitat advisors

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The Habitat Committee met on March 10, 2011 in Portsmouth NH to review updated EFH designations (text descriptions and maps), to discuss management options to protect deep-sea corals, and to receive an update on the SASI peer review.

EFH Designations

David Stevenson (NERO, Habitat PDT) led a discussion on changes proposed by the PDT for the EFH designations (maps and text) approved by the Council in 2007. The current versions of the designations are included in Document #1 (*EFH Designations – Decision Document for March 10 Habitat Committee meeting*) and were summarized by Dr. Stevenson in a PowerPoint presentation.

During his presentation, Dr. Stevenson explained a series of adjustments made by the PDT to the text descriptions and map representations of EFH. These adjustments apply to those designations based primarily on NMFS survey relative abundance (in Phase I parlance, these were referred to as 'Alternative 3', with 3C, 3D, etc. varying by survey percentile shown on the maps). The majority of the EFH designations approved in 2007 were developed using this method. In making these adjustments, a goal of the PDT was to make the maps more consistent with the text descriptions. In developing the maps and text descriptions for the decision document, the PDT was careful to ensure that they remained consistent with both the methods used to develop the original set of maps in the 2007 DEIS and with the Council's intent. No objections were raised by the committee to these adjustments. Note that the decision document describes these adjustments in detail for each species and lifestage, and compares each one to both the approved (2007) designation as well as the status quo (No Action) alternative.

Cases where the PDT was recommending that the Council consider approving a different alternative than was approved in 2007 were outlined specifically for the committee in the decision document and PowerPoint, and decisions on those topics are reflected in the motions listed below. The map numbers provided in the motions refer to Document 1. Note that due to removal of certain map options following the meeting, map numbers in subsequent draft versions of the EIS will not be consistent with those in this summary.

1. **Goethel/Kray. For Atlantic cod adult EFH, use the map based on depth and temperature limited 90% catch option, with historical spawning areas on the Maine coast ("Ames data"), and without any "fill'", as recommended by the PDT (Map 9). Motion carried 5/0/0.**

Dr. Stevenson noted that there were substantial coastal areas filled in by the committee during Phase I, and also that the Ames data were used during Omnibus 1 but not Omnibus 2/Phase I.

Ms. McGee asked if there were implications for the inshore cod HAPC, and Dr. Stevenson responded that the HAPC would not be affected as it was based on the juvenile cod EFH designation. There was some concern about using historic information (i.e. Ames data) but not including areas where adult cod are known to occur (inshore GOM, Nantucket Shoals).

Later in the meeting, the committee directed the PDT to explain at the next meeting why there are "open" areas in the adult cod designation where adult cod are known to be present but which are not included in this EFH designation.

2. **Goethel/Kray. For Atlantic sea scallop EFH (all lifestages), use the map based on 100% dredge and trawl survey data, with no depth limit (Map 17). Motion tabled.**

Dr. Stevenson noted that during Phase I, the committee used a 100% dredge survey distribution threshold because they felt that important scallop areas were missed with the 90% option, but that there was still an issue with lack of data in the Gulf of Maine. The committee originally added TMS of EFH in the GOM. The PDT decided that they could provide additional information about scallop distributions by using NMFS trawl survey data. Two new options include a map of all available survey data at 100%, or the same map constrained by a 110 m depth limit.

Mr. Goethel stated that he did not support a depth limit. Mr. Stockwell recommended incorporating the inshore Maine scallop survey because there are scallops in some of the areas that have been excluded, and he requested that the PDT analyze this data. Mr. Smolowitz commented that the designation misses dense scallop grounds on the Nantucket Shoal Area. Mr. Grout suggested that the Committee should table the motion, and requested that the two issues be addressed so that the Committee could reconsider the designation it at the next meeting. Mr. Goethel asked whether the MA inshore trawl survey counted scallops and if that data had been included in the map. Dr. Stevenson said that it was.

2a. Grout/Stockwell. To table the previous motion until the next meeting. Motion to table carried 7/0/0.

3. Goethel/Kray. For haddock adult EFH, use the map based on the adult survey distribution (Map 29) but exclude the Ames data. Motion tabled.

Dr. Stevenson noted that the previously approved map included both juvenile and adult haddock data, but that the PDT currently recommended using adult data only, as there is substantial adult data for this species. Committee members had some concerns about shallow-water inshore areas that were included in the proposed map (e.g., head of Penobscot Bay), that were lower salinity than used by the species. Dr. Stevenson explained that this was due to the inference of the original Ames data polygons to full ten minute squares. Application of a depth filter to the maps was suggested as a possible solution. There was also a question as to whether additional inshore areas should be included, and Dr. Stevenson responded that these areas did not meet the 10% of tows threshold applied to all inshore surveys. He also explained in response to a question that the PDT's methodology did not include filtering/trimming inshore TMS by depth, but that the text description (minimum depth 50 m) would take precedence in these cases. After discussion, the makers of the motion agreed that the motion should be tabled until the next meeting.

4. Goethel/Stockwell. For ocean pout egg EFH, use the map based on adult survey distribution limited to depths less than 100 m (Map 37). Motion carried 7/0/0.

Because ocean pout eggs are demersal, they are not caught in the surveys examined for EFH mapping. Thus, during Phase I, adult and juvenile distributions were used as a proxy, without any depth or temperature limits. The newly proposed maps both rely on adult survey data only, at depths less than 100 m (100 m depth based on new information in the GOM). One additional option would be to further restrict the map by fall temperature of 10 degrees Celsius or less, but this was not strongly recommended by the PDT. A committee member commented that Map 37 (depth but not temperature limited) appears to represent areas where he caught adult ocean pout in spawning condition, and that the temperature limited map appeared too spatially restricted in the GOM. Another committee member confirmed that ocean pout are caught in the areas off NJ shown as EFH on Map 37.

5. Stockwell/Kray. For winter flounder egg EFH, develop a map that includes areas shallower than 70 m on Georges Bank, shallower than 5 m south of the Cape, and shallower than 70 m in the Gulf of Maine (Map 75). Motion carried 7/0/0.

The committee had asked previously for additional information on spawning depth in the Gulf of Maine. The PDT investigated this issue and there is evidence (Fairchild research) that while GOM winter flounder come inshore, it does not appear that they are spawning within estuaries. However, the exact maximum depth at which they spawn is not precisely known. A range of

map options and associated text descriptions have been proposed. All include depths to 70 m on Georges Bank; the four sub-options are: 0-5 m along their entire range (status quo), 0-20 m along range (proposed Phase I), 0-70 m GOM coast and 0-20 m south of Cape Cod, and finally 0-70 m GOM coast and 0-5 m south of Cape Cod. Note that the proposed 5 m maps show the 20 m contour south of Cape Cod, but EFH would only extend to 5 m (which is difficult to map).

The committee proposed a split option, to 70 m in the GOM, and to 5 m south of Cape Cod. The shallower southern designation is supported by USACOE data. Mr. Smolowitz commented that some areas where he has observed spawning condition winter flounder are not included on the maps.

6. **Goethel/Stockwell. For pollock egg EFH and larval EFH, use the maps based on 90% of the adult distribution plus MARMAP egg and larval data (Maps 44 and 46). Motion carried 7/0/0.**

The PDT recommended basing these designations on a combination of MARMAP data plus adult abundance data, rather than solely using adult abundance data.

7. **Grout/Goethel. For redfish larval EFH, develop a map based on 90% of the juvenile survey catch, plus state survey data, plus the slope between 400-600 m north of 37 deg 38 min, with the addition of larval MARMAP data (this represents a combination of Maps 49 and 50). Motion carried 7/0/0.**

Note that approval of this new map for larval redfish means that Map 49, which was originally approved for larvae and juveniles, now applies only to juveniles.

8. **Goethel/Gibson. For red hake egg and larval EFH, reject the proposed map (100% MARMAP data for larvae, Map 53) and keep the previously approved map based on juveniles (Map 52). Motion carried 6/0/0.**

The PDT recommends not relying on juvenile distributions for the egg and larval map. The committee questioned why the juvenile distribution is so different from the MARMAP-based egg and larval distributions. A committee member noted that northerly shifts in the centers of various fish species' distribution have been observed, and that such a shift could possibly explain the discrepancy, given the age of the MARMAP data.

Note that the newly proposed juvenile map (Map 54) would not be used (i.e. Map 52 would be the egg, larval, and juvenile map representation).

9. **Goethel/Stockwell. For silver hake egg and larval EFH, reject the proposed maps using 100% MARMAP data for eggs and larvae, and keep the previously approved map based on juvenile trawl survey distribution (Map 57). Motion carried 6/0/0.**

Similar to red, hake, the juvenile distribution/EFH designation based on survey abundance is very different from the MARMAP-based egg and larval distributions and the MARMAP survey data is out-of-date.

10. **Stockwell/Goethel. For white hake egg EFH, reject both the previously approved map based on juveniles (Map 67) and the proposed map (Map 66, adults on the edge of the shelf) and approve a new map (Map 69) based on the entire adult distribution. Motion carried 5/0/0.**

Given observations of spawning condition white hake in the GOM, the proposed shelf edge distribution seemed inappropriate to the committee.

11. **Stockwell/Goethel. For witch flounder adult EFH, use the map based on adult survey data, rather than using juvenile data as a proxy. Motion carried 5/0/0.**

Note that approval of the new map for adult witch flounder means that Map 82, which was originally approved for juveniles and adults, now applies only to juveniles. Also note that Map 83 in the decision document is incorrect (it is a duplicate of Map 82), and the map shown in the PowerPoint presentation on the right hand side of page 31 is the correct version.

Deep-sea corals

The chair opened the coral agenda item with a discussion of a motion made at the previous committee meeting:

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

After receiving a number of responses from stakeholders on this issue, he questioned whether the motion was sufficiently precautionary, and stated that he would like to have a broader committee discussion on the desired policy with regards to deep-sea corals.

Presentation from NOAA Office of Habitat Conservation

At this time, Ms. Fan Tsao of the NMFS Office of Habitat Conservation in Silver Spring gave a presentation to the group. Her talk had four objectives: (1) outline NOAA's strategic plan for deep sea coral and sponge ecosystems, (2) discuss NOAA's conservation and management objectives relative to the interactions between corals and fisheries, (3) provide examples of management actions taken in other regions, and (4) suggest some next steps that might be taken by NEFMC. She noted that additional funding for research in the Northeast is planned for

2013-2015. She also noted that NEFMC would be the first Council to implement coral-related conservation under the MSA discretionary authority. She highlighted four sections of the MSA that provide either discretionary or mandatory authority under which the Council may address deep-sea coral issues:

- *Designate zones to protect deep sea corals from physical damage from fishing gear (MSA §303(b)(2)) –Discretionary*
- *Minimize bycatch to the extent practicable (National Standard 9; MSA §301(a)(9)) –Mandatory*
- *Identify and describe EFH and minimize, to the extent practicable, adverse effects caused by fishing (MSA §305(b)) –Mandatory*
- *Include management measures in FMPs to conserve target and non-target species and habitats (MSA §303(b)(12)) –Discretionary*

The NOAA DSC and sponge strategic plan outlines a step-wise strategy for DSC management. The strategy differentiates between mobile and non-mobile bottom tending gear, and between areas where DSC are known to occur vs. those areas that are 'inadequately surveyed'. Ms. Tsao noted the importance of mapping and characterization of coral areas.

1. *Protect areas containing known deep-sea coral or sponge communities from impacts of bottom-tending fishing gear.*
2. *Protect areas that may support deep-sea coral and sponge communities where mobile bottom-tending fishing gear has not been used recently, as a precautionary measure.*
3. *Develop regional approaches to further reduce interactions between fishing gear and deep-sea corals and sponges.*
4. *Enhance conservation in Sanctuaries and Monuments.*
5. *Assess and encourage avoidance or mitigation of adverse impacts of non-fishing activities on deep-sea coral and sponge ecosystems.*
6. *Provide outreach and coordinated communications to enhance public understanding of these ecosystems.*

Ms. Tsao cited the NPFMC management approach in the Aleutian Islands as an example. NOAA scientists and partners identified 'coral gardens'. In order to define open vs. closed fishing areas to protect the coral gardens, the NPFMC examined various data sets on trawl haul backs as well as trawl tracks. She noted that most of the areas fished at that time, and most of the yield from those fisheries, were kept open/maintained under this approach.

She congratulated NEFMC for working to develop deep sea coral protection zones, noting that this management strategy was in line with the Strategic Plan. She was unclear as to whether a 'freezing the footprint' type of management alternative might emerge from these efforts.

Committee discussion

Mr. Goethel raised the concern about the desired to restrict currently occurring fishing in areas where corals have been inferred but have not been directly observed. Much of this effort is from fixed bottom-tending gears. He noted that many of the known and inferred coral areas are in canyons, which have a sharply sloping topography such that spatial areas would be challenging to develop. He noted that the concept of prohibiting future fishing in broad areas of the continental slope not currently used for that purpose should be a separate discussion; one which he felt was perhaps confounded with the issue of more focused coral zone development. Mr. Grout asked for some clarification on NOAA's preferred strategy as indicated in the flowcharts, noting that his understanding was that most of the areas in our region would probably be characterized as 'inadequately surveyed', an assessment with which Ms. Tsao concurred. Mr. Goethel also clarified that the discretionary provisions ensure that an explicit link between designated EFH and coral protection areas does not need to be established. He asked, for cases where areas are closed to fishing as a precautionary measure, who would be responsible for mapping and characterizing corals in those areas should future fishing be desired (i.e. NOAA or the fishing community), and Ms. Tsao responded that this had not been determined, but that in the near future, funding would be directed towards coral research in the region. Mr. Chiarella reminded the Committee that there is an option on the table to define a coral zone from 200 m to the EEZ; if fishing were restricted in that area it would constitute an option that goes beyond freezing the footprint.

Dr. Stevenson asked on behalf of the PDT whether there were specific questions that the committee had that should be investigated prior to the next meeting. The following tasks were identified:

- Investigate the foot print of the fishery between 200 and 300 meters.
- Determine the maximum depth to which those fisheries occur (i.e. what is the maximum depth at the edge of the shelf beyond which no fishing is occurring (especially for mobile gear, i.e. bottom trawls).
- Overlay coral and fishing distributions
- Differentiate between areas that have been surveyed and those that have not been surveyed and map the extent of the surveyed areas. Also describe how surveys were conducted.
- A suggestion was made to focus efforts on the area between 200-2000 m.

Greg Cunningham (Conservation Law Foundation) raised a concern about the above-mentioned motion from the last meeting that appears to require documentation of coral presence before fishing activity might be restricted from a coral zone. He questioned whether this approach was sufficiently precautionary and consistent with agency guidance. Mr. Goethel responded that his concern at the previous meeting and now was that fishing that is currently occurring (e.g. red crab and lobster trapping, deep water monkfish gillnetting) would be excluded from areas where corals have been inferred but not actually documented. He wanted to ensure that if industry members are excluded from areas in which they currently operate that such exclusion be clearly justified based on data. Mr. Preble noted that the agency guidance

centers on mobile bottom tending gear. Bonnie Spinazzola (Atlantic Offshore Lobstermen's Asso.) reiterated a previous concern that fishing would be excluded from currently fished 'inferred' coral areas. Brad Sewall (National Resources Defense Council) recommending getting some of the alternatives off the table in order to alleviate industry concerns (e.g. restrictions on recreational gear). Mr. Chiarella reminded the group that the Council's actions will not affect the offshore lobster industry.

SASI Peer Review Report

Mr. Preble noted that the peer review panel was generally favorable to SASI, although they expressed concerns about the way some of the economic analyses might be used in the near term. Dr. Stevenson concurred with this assessment. He did emphasize that such economic analyses would likely be used to assess the impacts of various alternatives in the amendment, even if they were not used up front for developing alternatives.

Other business

Ms. McGee raised the possibility of splitting the Phase I aspects (specifically EFH designations) from the rest of the Omnibus. Her primary concern was that NOAA and the Council would benefit from updated EFH designations during comment/consultation on rapidly emerging wind energy proposals. Mr. Chiarella noted that the Omnibus, while originally split into two phases, was not split into two actions for implementation because General Counsel advised that implementation of designations alone, without associated adverse effect minimization options, did not fulfill the suite of EFH-related FMP requirements. Although staff noted that existing designations could be used for consultations, Ms. McGee countered that they were in some cases substantially different from those newly proposed. She requested legal guidance on this issue, and also asked about Council staffing priorities related to habitat.