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

January 13, 2010
Portsmouth, NH

Committee members:	David Preble (chair), Jim Fair, Terry Stockwell, Mark Gibson, Lou Chiarella, Gene Kray
Council staff:	Michelle Bachman (PDT chair)
NMFS staff:	David Stevenson (PDT)
Others:	< 10 additional audience members

The meeting commenced at 9:30 a.m. with an introduction from the Chair.

SSC review of SASI model

The first topic was a briefing from staff on the Scientific and Statistical Committee's December 9 review of the Swept Area Seabed Impact model, a tool which is being developed by the PDT to improve analysis of EFH-related management alternatives. The chair prefaced the discussion with a listing of ways in which the model can be used, including to direct habitat research, analyze changes in fleet structure, model effects of new or modified gear types, model effects of gear restrictions, evaluate cumulative effects, bring economic considerations into EFH analysis, and identify areas vulnerable to particular gear types. He emphasized that model should be used objectively and holistically, without 'cherry-picking' specific components.

The PDT chair then summarized the SSC's main points (Documents 2 and 4). The SSC felt that comments made following their March 2009 review of SASI were considered seriously by the PDT. Broadly speaking, the SSC endorsed the SASI model for use in fishery management decision making. However, they emphasized that an understanding of the uncertainty surrounding SASI outputs will be important as the Council makes decisions based on SASI results. The SSC stated that simulation could be used to estimate the endogenous uncertainty of the model. They noted that very large differences in Z (i.e. order of magnitude) would be straightforward to interpret, but that as differences in total Z between alternatives diminished, it would be more difficult to distinguish between them. They suggested that conducting comparison model runs using realized effort data, given known regulatory changes, would be a way to test for meaningful changes in the magnitude of Z. In particular, they requested comparison runs using 2007 and 2008 realized effort surfaces for scallop dredges and otter trawls, years for which both VTR and VMS data are currently accessible. This work is in progress and will be presented at the Council meeting on January 27. Over the long term, the SSC noted that it will be important to groundtruth whether the expectations about the

directionality and magnitude of habitat change given a particular level of fishing impact hold. They acknowledged that this type of groundtruthing will require field research, but would be requisite for long-term reliance on the model.

Committee discussion

A committee member expressed some concern that it remained difficult for him to evaluate the usefulness of the model without having seen the outputs from model runs that incorporate realized effort data. The PDT chair acknowledged this difficulty, emphasizing that there are various levels and layers of information in SASI, which even if used individually, would represent a substantial improvement over previous information used for habitat-related analyses. In particular, the underlying substrate grid is an improvement over previously used information, and the calculation of spatially-explicit area swept estimates for all gear types, even given measurement error and absent adjustments for habitat vulnerability, is also an improvement over previously available information.

Audience discussion

Ron Smolowitz (Fisheries Survival Fund) emphasized the importance of groundtruthing, and asked whether the SSC had provided any specific guidance. He referred to habitat data from SMAST and the HabCam; his understanding was that these surveys have not seen differences between areas inside/outside closures. Such information would give insight into recovery times. The PDT chair acknowledged the difficulty of groundtruthing, and noted that before-after surveys would be important in this regard. She reminded the group that the terminal R assumption of 10 years in the model means that after year 10, any adverse impact resulting from effort that entered the model in year 1 is completely eliminated.

Gib Brogan (Oceana) expressed concern about the possible errors associated with using VTR data. The PDT chair responded that these errors will be documented, that data will be compared to observer and VMS data to the extent possible, and that the structured grid can be blown up to 100 km x 100 km cells if there is concern about the accuracy of spatial data associated with VTRs.

Model results

The PDT chair presented some results in the form of summary figures of S and R values, simulated effort output maps for six gear types, and annual nominal area swept and value information calculated for the trawl and scallop dredge gear types. These are shown in Documents 4 and 5. She requested input as to how to best present this information to the Council.

Committee discussion

There was some concern about presenting information about the value of landings from various fisheries alongside information about area swept, as value is complex and influenced by many factors. However, the committee chair noted that the biological concept of long-term sustainable yield is inherently economic. A committee member commented

that the real importance of such slides in a presentation to the Council will be to emphasize the reduction in area swept for trawl gears since 1996, and a suggestion was made to point out significant management milestones on any figure showing nominal area swept over time.

Audience discussion

Gib Brogan was concerned about the presentation of value information, including calculations of value from the fishery per amount of nominal area swept. This was seconded by Greg Cunningham (Conservation Law Foundation) and Maggie Raymond, (Associated Fisheries of Maine). Two comments were made regarding the relationship between area swept and stock status by Gib Brogan and by Maggie Raymond. They noted that area swept estimates will vary according to catch levels, which would increase over time as stock status improves.

PDT progress towards completion of committee tasking

The PDT chair outlined the tasking assigned by the committee at its last meeting (Document 4) and commented on PDT progress to date. Briefly, this tasking relates to analysis of existing EFH closures and proposed HAPCs using SASI, and the recommendation of any new areas for closures or gear restrictions. Other work noted in the slide presentation but not discussed during the meeting includes summarizing information on deep-sea corals and development of coral protection alternatives, as well as work the PDT has initiated to summarize the vulnerability of prey habitat features and corals to fishing gears.

Audience discussion

Ron Smolowitz commented that for the scallop resource, there is a great deal of information on the relationship between scallop distribution and abundance and substrate, and that this information should be incorporated into alternatives development.

Regarding the development of alternatives that account for the relationship between stocks exhibiting poor recruitment, their spawning habitat requirements, and the vulnerability of those habitats to fishing, Maggie Raymond expressed concern that links between stocks and habitats are difficult to establish. This was seconded by David Stevenson, a member of the PDT. However, Ron Smolowitz countered that we do have information related to certain stocks, such as cod and winter flounder. Ms. Raymond continued that in Maine, the historical abundance of some stocks was in state waters, and that given the lack of trawling, trawling impacts are not the primary concern. She wondered whether declines are instead due to factors such as water quality, or lobster trap effort.

Committee discussion

There was a suggestion to include information on juvenile abundance in the amendment. A committee member suggested overlaying juvenile EFH, which is closely related to juvenile abundance, onto maps of realized Z (impact) to look for overlaps. He acknowledged that while the Council will be unable to regulate the actions of others, that it

could highlight concerns and provide advice. He then questioned the meaning of 'key', in terms of developing EFH alternatives that maximize protections for vulnerable habitat components for key stocks. The committee chair suggested that key should relate to both high value and overfished stock status. In terms of increasing the 'efficiency' of habitat closures, the committee suggested that this could be related to factors such as catch per unit effort, or distance from port. In line with Mr. Smolowitz's earlier comment, a committee member wondered scallop distribution and abundance information could be used for this purpose. In terms of gear restricted areas, a committee member noted that it will be important to incorporate economic consideration into the analysis. The need to look at ancillary issues (such as) related to HAPCs was also noted.

Review of Interim Framework for Marine Spatial Planning

The habitat committee was asked to review and comment on the *Interim Framework for Effective Coastal and Marine Spatial Planning* (MSP) released by the Interagency Ocean Policy Task Force on December 9, 2009 (Document 1). By way of introduction, the committee chair highlighted some key aspects of both this report and an earlier task force report, both of which can be downloaded at http://www.whitehouse.gov/administration/eop/ceq/initiatives/oceans. The Council was first made aware of MSP issues last June with the President's executive order relating to MSP; this included a 90-day timeline for development of a national policy and 180-day timeline for the development of a MSP framework. The task force's initial report did not mention either Magnuson or the Council process, and since that time, it appears that the term 'coastal' has been added to MSP. He wondered how the National Ocean Council would function with regard to existing laws and the U.S. constitution. He noted that under the interim framework, jurisdiction to the high water mark including estuaries and watersheds is assumed.

At the chair's request, Greg Cunningham responded to the question of constitutionality. He noted that the MSP process is unique because it was not implemented by legislation, but rather by executive order, and that it seems to be an intent to use existing legal authorities to expedite a 'long overdue process'. However, the oceans are currently regulated by multiple agencies that frequently don't consult with one another, and are individually and collectively subject to numerous different statutes. He thought that the overall framework proposed, although it may conflict with states rights principles, is likely not overstepping constitutional bounds. The Coastal Zone Management Act, for example, involves state approval for projects given state CZM plans, with final Department of Commerce approval. He also noted that the commerce clause of the U.S. constitution grants the federal government rights over interstate commerce and navigable waters. His view was that the framework is more of a mechanism for resolving conflicts, and that the National Ocean Council will not be a final arbiter of issues. He noted further that stakeholders and states will probably require a substantial appeal system. As a side note, he mentioned that CLF has generally been supportive of the concept of MSP, but that it is difficult to make specific comments without details.

Also at the chair's request, Drew Minkiewicz (Fisheries Survival Fund) commented that in his opinion, this could represent the biggest law that the U.S. congress never created, and that he

seriously questioned whether there is sufficient authority in existing law to enact the framework's provisions. In addition, he reminded the group that Congress has not acted on the actions requested by the U.S. Ocean Commission's 2004 report.

Committee discussion:
Broadly speaking, the lack of detail to comment on was noted by multiple committee members. One committee member expressed extreme skepticism that such integration could actually be achieved, and another commented that the timeline seems very ambitious. Someone noted that homeland security issues seem to be an important driver of the process.

The chair noted that the framework document mentions that actions would be carried out within the scope of existing law, but that if existing laws are not sufficient that changes would be suggested (page 6). He acknowledged that the states rights and commerce clause issues are probably not important to raise in the Council's comment letter, but that the need for an appeals process should be mentioned. Similarly, a committee member was concerned about the exact role of the NOC as the final arbiter of MSP concerns. He wondered where the states and entities such as the Atlantic States Marine Fisheries Commission would fit in.

A committee member commented that he sees this as an unfunded mandate that will require substantial funding to do properly—in particular, monitoring alone will cost a fortune. There was some concern that the process would take funding away from previous agency priorities (see page 31), as agencies would reevaluate how resources are allocated. A committee member was concerned that the framework did not propose any holistic funding process.

In regards to the committee's concern about the lack of role/mention of the existing FMC process, Greg Cunningham commented that specific groups were probably not mentioned to avoid the appearance of favoritism. The chair responded that the comment letter should include the Council's legislative mandates, including any consultation ability. Strategies for developing the comments letter included: (a) highlighting favorable aspects of the framework, (b) highlighting concerns, (c) describing Council's role, (d) describing what Council can offer the MSP process.

In terms of positives, a committee member noted that the goals to address ecosystem-based management and cumulative effects are good ones. Another positive is that the approach could provide better data. The chair noted that NEFMC habitat work (i.e. SASI) might be able to fulfill some of the data product requirements noted on page 25 of the framework.

Committee comments will be further elaborated on in the comments letter.

The meeting adjourned at approximately 2:30 p.m.