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**New England Fishery Management Council  
Habitat Oversight Committee Meeting Summary**

**December 4, 2012  
New Bedford, MA**

- Committee members:** David Preble (chair), Dave Goethel (vice chair), Terry Alexander, Lou Chiarella, Warren Elliot, Doug Grout, Peter Kendall, Matthew McKenzie, John Quinn. Council chair Rip Cunningham also attended.
- PDT/Council Staff:** Michelle Bachman (PDT chair/Council staff), Peter Auster (UConn/Sea Research Foundation), Kathryn Ford (MADMF), Mike Ruccio (NERO SFD); David Stevenson (NERO HCD), Andy Applegate (CATT chair/Council staff), David Thomas (Council Staff)
- Others:** 20+ additional audience members, including some habitat advisors
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The Habitat Committee met to:

- Receive an update from the Bureau of Ocean Energy Management on developments related to wind energy projects offshore of Massachusetts
- Discuss correspondence
- Review the Omnibus Amendment timeline
- Receive a progress report from the Closed Area Technical Team, which is coordinating development of groundfish-related area management options for Omnibus EFH Amendment 2
- Conduct a brief review of Habitat Management Area Options
- Have a detailed discussion of gear modification management options to minimize the adverse effects of fishing on EFH, including a determination of which options to move forward for further development
- Review a range of proposals for Dedicated Habitat Research Areas and decide which to move forward for further development

**BOEM update**

Brian Hooker provided an update on BOEM's activities related to wind energy areas (WEA) offshore MA and RI. The comment period on an Environmental Assessment analyzing the potential impacts of leasing and site assessment activities for the MA WEA closed recently. In terms of impacts on fishing, monitoring and assessment activities are expected to cause increased vessel traffic and the monitoring towers and buoys may obstruct fishing operations, but overall the footprint of these structures is minimal, roughly 2000 ft<sup>2</sup> for a tower, and less for a buoy. Also, as of early December, the proposed sale notice for leases in the MA/RI WEA is now

available. Lease-specific terms, conditions, and stipulations may be of interest and are detailed in Addendum C to the commercial lease application. Mr. Hooker noted that consultations between BOEM, NOAA, and US Fish and Wildlife Service are ongoing regarding standard operating conditions within WEAs during various stages of planning and development.

Committee members asked about the potential for exclusion areas around the turbines and whether the US Coast Guard has commented on the issue. They were informed that developers do not have the authority to exclude fishing or other vessels from wind farm areas, but that they can prohibit anchoring on their structures. The Coast Guard has said that they have no intention of requiring exclusion zones for these types of applications. Another Committee member asked about whether the various WEAs and activities within them are being evaluated in terms of their cumulative effects of fisheries, fish resources, etc. Mr. Hooker responded that research is ongoing to better understand the potential for cumulative effects of multiple installations on resources and activities. The Committee member's opinion was that cumulative effects issues should be addressed early in the process before leasing occurs. Mr. Hooker didn't disagree with this statement, but did note that lease issuance only confers the right to submit a construction and operations plan, which must be approved before the area can actually be developed. Construction and operations plan submission triggers further environmental review in the form of an Environmental Impact Statement, which will explore issues such as possible exclusion/space use conflicts and cumulative effects in greater detail.

### **Correspondence**

The Committee discussed a letter sent to Eric Schwaab, Acting Assistant Secretary for Conservation and Management at NOAA, from eight scientists (mostly regional) with expertise in fisheries biology, ecology and economics. The letter expressed concern about the alternative in Multispecies Framework Adjustment 48 that would allow sectors to request exemptions from fishing restrictions within parts of the five year-round groundfish closed areas. This prompted a general discussion about the original purposes of the various closures. Committee members agreed that an understanding of the history behind the various areas was important, but some were concerned as to whether it was appropriate to have such a discussion in a habitat context, and wanted to avoid confounding habitat and groundfish management objectives and related discussions. Other Correspondence included a letter from NERO regarding clam dredge access to areas on Georges Bank currently closed for PSP, an email from Stellwagen Bank National Marine Sanctuary Superintendent Craig MacDonald regarding Sanctuary Advisory Council support for the SERA II proposal, a letter from Conservation Law Foundation encouraging the Committee to not approve gear modification options for further development in this amendment, and finally a letter from Maine Coast Fishermen's Association with comments about specific proposed habitat management areas in the Gulf of Maine.

### **OA2 timeline**

Staff reviewed the Omnibus Amendment timeline. Major Council actions are currently scheduled as follows: approval of alternatives for analysis in April 2013, review of the EIS and selection of preferred measures in June 2013, and selection of final measures in September 2013. The Council Chair noted that if possible he would like to see some of those meetings moved up

if possible. Related to the deep-sea coral amendment which will be completed as time permits but likely after OA2 is completed, the Mid-Atlantic Fishery Management Council is currently scheduled to take final action on their coral amendment in October 2013 (timeline based on an EA vs. EIS).

### **CATT update**

Closed Area Technical Team chair and Council staff member Andy Applegate briefed the Committee on the work of the CATT and how he expects it to fold into the broader Omnibus Amendment. The CATT was populated in August with Groundfish PDT, Habitat PDT, and other NOAA staff, and first met in September. Until very recently, the group has been focused mostly on analyzing the proposed closed area sector exemptions in Framework 48, although some of the data sets and analyses should prove relevant to development of groundfish-driven management areas in an OA2 context. Related specifically to OA2, the CATT developed a set of goals and objectives for groundfish area design, which were approved by the Groundfish PDT, Groundfish Committee, and the Council. The goal is to have a set of groundfish area management options ready for the January Council meeting, but Mr. Applegate emphasized that there is significant work to be completed before then.

Various strategies were considered for groundfish area development. Initially the CATT discussed that a useful starting point would be completing an assessment of the groundfish benefits that would be associated with the range of habitat management areas. One challenge with this approach is that some of the habitat management areas are relatively small, such that there are limited biological samples from the NMFS trawl survey for each of the areas. Another issue is that this set of areas may be missing locations that are important in terms of addressing groundfish productivity concerns.

For this reason, a fresh approach to identifying key locations relevant to groundfish productivity will be taken, and then any identified areas will be reconciled with the range of habitat management areas at a later time, after the January Council meeting. Mr. Applegate noted that Habitat Committee guidance in terms of which habitat options to group into alternatives would be very welcome by the CATT (and also by the Habitat PDT). In response to a Committee member question, staff confirmed that the EIS will consider the effects of the groundfish and habitat areas on resources such as skates and monkfish, but that area design was and will be driven by habitat and groundfish productivity objectives. Both staff and Committee members noted that the habitat and groundfish areas might not overlap going into the reconciliation process. A Committee member suggested that data from specialized fisheries may be helpful in terms of understanding benefits and minimizing impacts. He gave the example of the whiting fishery in the inshore GOM which occurs just after the GOM Cod Spawning Protection Area (Whaleback Area) reopens, and catches little or no cod, painting a picture of temporal shifts in fish distribution that may be difficult to obtain from the seasonal trawl surveys. Another example provided was that scallop fishery observer data could be used to better understand seasonal distributions of yellowtail flounder.

### **Gear modifications**

Documents for this part of the meeting included:

- **Document 2 – Summary from October 10 Advisory Panel/PDT meeting**
- **Document 3 – Summary from November 2 Habitat PDT conference call**
- **Document 5 – Gear modifications discussion document**
- **Document 8 – Gear modifications PowerPoint presentation**

Staff reviewed draft gear modification options and recommendations of the PDT and Advisory Panel. A Committee member asked whether elevating disks were considered for the bridles as well, and staff noted that while they had not been discussed explicitly that they probably made sense. He also noted that due to the 14°-19° angle of attack of the cables and bridles that the disks would actually sweep more area than their width would indicate. He also guessed that it would be difficult for smaller vessels especially to fit additional disks onto a net reel. Staff commented that in the two areas investigated, Georges Shoal and the Great South Channel, about 50% of the cables used during observed trips were reported as bare wire, about 50% wire with cookies, with very small percentages of other types. A Committee member reported that in general, small vessels use smaller cookies and larger vessels use larger ones.

With respect to the 45 fathom proposed for Georges Shoal, staff commented that the value was determined by the AP after review of the lengths used on observed trips in the area. 45 fathoms is approximately 10 fathoms longer than the mean length. Another Committee member commented that it might be important to distinguish between gear types if these types of rules are developed. For example, haddock separator trawls require long bridles for proper operation.

General audience comments were solicited at this point. Ron Smolowitz (Fisheries Survival Fund) commented that the goal should be catch per unit effort maximization. Bill Amaru (Captain, F/V JOANNE-A III) asked whether the whiting raised footrope trawl had been addressed specifically. He also noted two reduced impact gear types, specifically semi-pelagic trawl doors and wire/rope ground cables. Both are infrequently used but have lower seabed contact. He noted further that gear modifications have the potential to impact the capture potential of the fleet.

A Committee member commented that these types of gear modifications should be frameworkable so that they can be implemented in the future if appropriate, given that gear engineering research is currently moving forward at a rapid pace throughout the region.

**Motion 1: (Goethel/Alexander) That for all proposed habitat management areas open to bottom-tending mobile gear fishing at the conclusion of the OA2 process, a data collection program specific to evaluating bottom-tending mobile gear modifications be implemented. The data collection program should include documented characteristics of existing gear – i.e. cable length, door design, sweep design, etc. Experiments investigating change in seabed impact and catch using various ground cable lengths would be given high research priority. (6/0/2)**

The goal here is to implement a data collection program first and then develop measures in a later action. The maker specified that it would be useful to separate out gears configured for

specific applications in the data – e.g. separator trawls, raised footrope trawls, and also to identify use of low impact gear types such as semi-pelagic trawl doors and wire/rope ground cables. Staff noted that much of this information is already collected via the observer program.

Audience comments: Both Greg Cunningham (Conservation Law Foundation) and Gib Brogan (Oceana) were in support of the motion. Ron Smolowitz (FSF) commented that the onus should be on fishermen to describe the gear or gears they use, and the descriptions can then be confirmed when trips are observed.

**Motion 2: (Goethel/Alexander) That the advisors and PDT be tasked with developing a set of specific questions related to the use of gear modifications for conservation of habitat, including a comprehensive list of gear characteristics, methods for collecting such information, and catch data necessary to make useful comparisons across gear types. (5/0/2)**

The intent is to build up a database of information that will help the Council develop and analyze future measures.

**Motion 3: (Goethel/Grout) That gear modifications within habitat management areas open to fishing be a frameworkable item. (5/0/2)**

The intent here is to confirm that changes to the restrictions on fishing within habitat management areas would be frameworkable.

**Motion 4: (Alexander/Goethel) Request that the PDT develop a suite of gear modifications for the Great South Channel Habitat Management Areas related to scallop dredges, should they be required. (4/1/3)**

The intent is to see if there are gear modifications that would cause scallop vessels to avoid complex habitats. The issue is one of dredge design, not dredge width – note that the original wording of the motion included language about dredge width that was subsequently removed.

A number of general category scallop vessel owners/operators commented on this motion. Chris Merl (sp?) F/V Aidan's Pride was supportive of the motion but concerned about the four Great South Channel Areas in general. Jesse Rose also supported allowing continued access for vessels willing to modify their gears. Tom Reilly F/V Three Graces was also supportive, and would prefer an exemption from habitat management area restrictions altogether. Ryan Nolan agreed that if the areas do close to mobile gears that he would want to see an exemption for scallop dredges. Paul Valfides F/V Donna Jean II also supported the motion.

Drew Minkiewicz (Fisheries Survival Fund) was concerned about the motion. He suggested that perhaps limiting scallop trips in the areas, similar to an access area concept, might be a better approach. He was also concerned that the issue of identifying the areas was being conflated with the issue of determining appropriate gear restrictions/exemptions/modifications for the area, and that the motion was not about the area definition but about the measures. Gib Brogan (Oceana) agreed with concerns about the motion, and also agreed that limiting dredge width would not be

helpful. Bob Keyes (general category scalloper) also agreed that dredge width limits were not useful here. (At this point in the discussion the language in the motion related to dredge width was clarified). Ron Smolowitz (FSF) stated that he had been involved with previous efforts to design lower impact scallop dredges and that nothing fruitful had ever been developed that didn't have serious effects on catch or cause safety concerns. He gave the specific example of safety concerns surrounding rock chain removal.

Interwoven with the Motion 4 comments, concerns were raised about the boundaries of the four Great South Channel areas, including how they were developed and what potential impacts would be to the general category scallop fishery. A detailed explanation of the area development process was provided by staff.

A specific recommendation was made to eliminate the northeastern corner of the northernmost (Chatham Light) area on the basis of it not incorporating complex substrate types as the remainder of the area does. The PDT has been in correspondence with interested industry members on this issue and will make a recommendation to the Committee at their next meeting. Beyond this specific recommendation, via the following motion the Committee recommended that the PDT develop a single management area for the Great South Channel.

**Motion 5: (McKenzie, Alexander) Move that the Committee request the PDT develop an alternative for the Great South Channel proposed habitat management area consisting of a single area of roughly equivalent habitat protection value to the cumulative value of the four proposed sub-areas, as identified by SASI cluster/PDT analysis. (5/1/2)**

Beyond practicability concerns related to scallop fishing, another reason to look at a single area would be to facilitate analysis by the Habitat PDT and Closed Area Technical Team, and also to facilitate enforcement. The committee was reminded that the Council has reviewed (September 2012) but not yet approved for analysis a range of habitat management areas. The habitat management areas will be approved for analysis in conjunction with the groundfish management areas (this step in the process is currently scheduled for April 2013, but could occur sooner via a special Council meeting). A concern was raised that a single area might actually have increased impacts on industry as compared to smaller areas more focused on clusters of specific substrate types.

Committee and audience members asked how this would fit into the overall timeline for the process. Major next steps for the PDT include an analysis of habitat vulnerability, area swept, catch, and revenue data for the various habitat management areas. While it would be helpful to have a final set of habitat areas sooner rather than later so that this analysis can begin, groundfish area management proposals are in the very early stages of development. Similar questions about catch, revenue, etc. will be asked of the groundfish management areas. Thus, the best time to present these types of area-based analyses will be after groundfish area management proposals have been approved by the Groundfish Committee and reviewed by the Council, but before the Council selects measures for analysis in the DEIS. Analyses will then be completed after the Council selects a range of options in April (or sooner) in order to have a draft EIS document ready for Council review in June.

**Dedicated Habitat Research Areas**

Documents for this part of the meeting included:

- **Document 2 – Summary from October 10 Advisory Panel/PDT meeting**
- **Document 3 – Summary from November 2 Habitat PDT conference call**
- **Document 6 – Dedicated Habitat Research Areas discussion document**
- **Document 7 – DHRA PowerPoint presentation**

Staff reviewed the range of research area questions and proposals suggested by the PDT (documents 6 and 7). Some proposals were also recommended by the Advisory Panel (document 2).

General audience comments included concerns about funding and economic impacts (Drew Minkiewicz, FSF) and a comment that fishery recruitment and productivity are the most critical issues to understand, as opposed to fishing gear impacts on habitat (Ron Smolowitz, FSF).

The Committee recommended two of the DHRA proposals for further development:

**Motion 6: (Goethel/McKenzie) Recommend that the SERA II area be analyzed for further development. (5/0/1)**

Note that further development of a DHRA in this area was recommended by the AP.

**Motion 7: (Goethel/Alexander) Recommend scallop productivity DHRA (section 4.2.1) for further analysis. (5/0/1)**

Note that further development of a DHRA in this area was recommended by the AP.

**Motion 8: (Goethel/Alexander) A DHRA is removed after three years if no research has been initiated. (3/2/1)**

The intent of this motion was to ensure a DHRA designation can be removed if some substantive progress has not been made towards using a DHRA within a relatively short timeframe of three years. If a research area is being actively used, it would be maintained indefinitely. The goal would be to create a mechanism by which the area could be removed automatically without requiring further Council action in the form of an FMP amendment or framework adjustment.

One Committee member was concerned that a 3 year window was too short, and felt that long term studies would require long term planning ability. Others thought that a relatively short window would force quick action on the part of those seeking to do research. A Committee member commented that once managed areas are implemented they become very hard to remove, and the goal would be to avoid having to overcome substantial procedural hurdles if research areas are not utilized.

Peter Auster (UConn/Sea Research Foundation) was concerned that this type of provision could dissuade funders from investing in research. He also noted that within areas that are envisioned as long term habitat management areas intended to minimize adverse effects, the cost of keeping a complementary research area designation is less because some fishing activities are already limited as a result of the adverse effects minimization measures. John Williamson (Seakeeper.org) noted that a minimum 10 year time horizon was identified as appropriate for research areas during the first Omnibus EFH Amendment. He suggested that perhaps a solution would be to make research designations frameworkable so that they could be removed more easily if warranted. Drew Minkiewicz (FSF) supported the motion. Ron Smolowitz (FSF) asked how habitat research area development and use will move forward post-OA2, within an ongoing cross-FMP habitat process, or within individual FMPs?

**Motion 9: (Goethel/McKenzie) That the PDT develop an option for a DHRA within the boundaries of the northeastern most LISA cluster identified in Document 2, Page 13, Figure 3. (3/1/1)**

*This area is overlaid on a chart on the last page of this meeting report.*

Aaron Dority, on behalf of Penobscot East Resource Center, has expressed interest in some type of management for an area off of the Maine Coast, and has specifically referenced the Swept Area Seabed Impact model trawl LISA cluster that extends from offshore of Mt. Desert Island southeast down the coast to Isle au Haut Bay. The intent of the motion was to have the PDT design a research area based on this cluster, in collaboration with PERC. It was discussed that aside from lobster trapping, that there is relatively little fishing effort in this area in comparison to historical effort. While Mr. Dority expressed interest in the area as one that would be used to protect habitat and minimize adverse effects, the maker of the motion argued that a DHRA designation would be less controversial to implement and given the above motion, simpler to remove if it is no longer being utilized.

Ben Martens (Maine Coast Fishermen's Association) supported the motion, but noted that some productive groundfish tows remain in that region that should be protected if a research area is designed that would limit fishing activities.

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*Northern Edge of Georges Bank*

At the request of the NERO representative, the Committee discussed the idea of a research area on the northern edge of Georges Bank. Dr. Auster on behalf of the PDT commented that in many ways this is a good location for a research area because it combines gravel pavement habitats, relatively high abundances of various species of interest (cod, haddock, etc.), and a unique oceanographic regime. Because these features extend on either side of an existing area, this region provides a good place to implement a before-after-control-impact design. Reopening the existing closure area risks losing an opportunity to address questions.



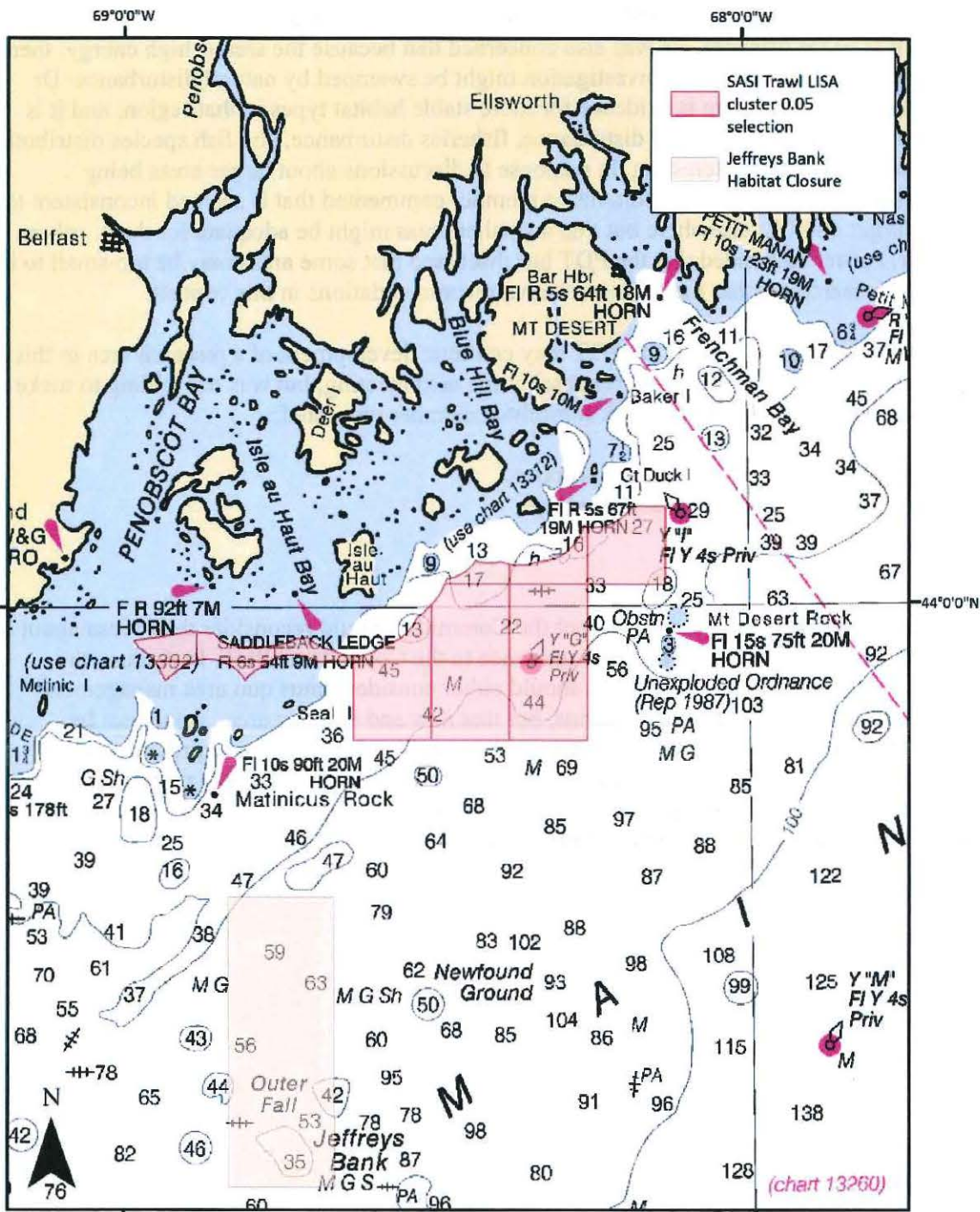
One Committee member expressed concern about the cost of conducting research in that region because it is so far offshore. He was also concerned that because the area is high energy, there is a risk that fishing effects under investigation might be swamped by natural disturbance. Dr. Auster responded that there is evidence for more stable habitat types in that region, and it is exactly the interaction of natural disturbance, fisheries disturbance, and fish species distribution and productivity that is interesting. In response to discussions about larger areas being progressively whittled down, a Committee member commented that it seemed inconsistent to request larger DHRAs elsewhere but that a smaller areas might be adequate for the Northern Edge. Dr. Auster responded that the PDT has discussed that some areas may be too small to be useful for research and has made research area recommendations in this context.

The Committee concluded that the PDT may continue development of a research area in this region and present a more detailed proposal at the next meeting, but was not willing to make a motion directing the PDT to do so. A committee member requested:

1. Area boundaries for anything proposed
2. A review of Advisory Panel concerns

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Finally, Gib Brogan asked whether or not the Committee would reconsider their ideas about how to package alternatives to provide clear guidance to the Council and PDT. In August, the Committee agreed that the alternatives should either consider status quo area management options, or new area management options, but that new and existing areas would not be combined. He hoped that the Committee would reconsider this decision to provide greater flexibility to the Council as it makes their decisions. A Committee member responded that it was too late in the day to take up such a discussion and make any decisions on this topic, and suggested that the issue be raised at a future meeting.



New England Fishery Management Council  
 Map date: 21 December 2012  
 Projection NAD 1983 UTM Zone 19N

0 3.25 6.5 13 Nautical Miles