



**New England Fishery Management Council  
Joint Habitat and Groundfish Oversight Committee Meeting Summary**

**September 5, 2013  
Portsmouth, NH**

<b>Committee members:</b>	David Preble (Habitat chair), Terry Stockwell (Groundfish chair, Acting Council chair), Tom Dempsey (Groundfish vice chair), Terry Alexander, Frank Blount, Lou Chiarella, Melanie Griffin (for David Pierce), Doug Grout, Peter Kendall, Matthew McKenzie, Sue Murphy, Laurie Nolan, Laura Ramsden, Dave Wallace (Habitat Advisory Panel chair).
<b>Council staff:</b>	Michelle Bachman (PDT chair), Andy Applegate (CATT chair), Deirdre Boelke, Jaime Cournane, Fiona Hogan, Tom Nies, Dave Thomas
<b>Additional NOAA staff:</b>	Mitch MacDonald, Moira Kelly, Mark Grant, David Stevenson
<b>Additional PDT/CATT:</b>	Peter Auster
<b>Others:</b>	Roughly 30 additional audience members, including a Council member and various advisory panel members

The Habitat and Groundfish Committees met jointly in Portsmouth to refine the spatial management alternatives included in Essential Fish Habitat Omnibus Amendment 2 (OA2). These alternatives were approved by the Council for analysis at their June 18-20 meeting in Portland, ME. The group convened as a committee of the whole, meaning that attendees who were members of both Committees, including the Regional Administrator (represented by his designees), received only one vote. At the beginning of the meeting the Groundfish Committee chairman/Acting Council chairman stepped down as co-chair of the meeting in order to participate directly in the discussion, and abstained on all votes.

Documents provided for the meeting included:

- Document 1: Draft of OA2 DEIS including introductory material and spatial management alternatives
- Document 2: Report from OA2 informational meetings held August 2013, including technical advice
- Document 3: Metrics analysis of management areas – reproduced from May 2013 Committee meeting
- Document 4: Correspondence
  - 4a, 4b, 4c – Letters and background information from Massachusetts Division of Marine Fisheries
  - 4d – letter from Northeast Regional Office
  - 4f – letter from Penobscot East Resource Center
  - 4g – letter from Northeast Seafood Coalition (Committee received at meeting)

- 4h – letter from Associated Fisheries of Maine (Committee received at meeting)
- 4i – letter from Randy Cushman (Committee received at meeting)
- Document 5: Draft framework and monitoring ideas discussed by the Closed Area Technical Team on August 19, 2013

The chair stated that the meeting is about making sure that complex set of alternatives are right, and to make any adjustments needed to improve alternatives or correct any errors so that the necessary technical analysis can be completed. Any recommendations will be forwarded to the Council in September for final approval.

He acknowledged that the alternatives are contentious, and that his goal for the day was to stick to the topic at hand and stay on task. The plan for the meeting was to review each alternative in the order they are presented in the DEIS, and take Committee and then audience comments that address each alternative. The focus is not whether you approve or disapprove of the alternative, as that is for a future meeting; the point is to comment on structure.

### Review of management alternatives

Staff gave a brief review of the spatial management alternatives (section 9.0 of Document 1). The spatial management alternatives are grouped into three categories, presented in the following order in Document 1: year-round habitat management areas, seasonal spawning areas, and dedicated habitat research areas (summary in Table 1).

**Table 1 – Types of spatial management alternatives**

<b>Alternative type</b>	<b>Year round or seasonal</b>	<b>Which areas comprise the action alternatives?</b>	<b>Type of restrictions (generally)</b>	<b>Rationale</b>
Habitat protection	Year round, long term	Modified versions of existing habitat management areas in groundfish and scallop FMPs, new areas developed through SASI analysis and groundfish hotspot analysis.	Mobile bottom-tending gears – prohibit their use, or allow dredges and require gear modifications for trawls only. Option to exclude hydraulic clam dredges from the restriction if all mobile bottom-tending gears are prohibited.	Minimize adverse effects of fishing on highly structured seafloor habitats to protect the areas ability to shelter fish and fish prey, some areas focus on encompassing habitats for juvenile large mesh multispecies in particular
Spawning protection	Seasonal, long term	Existing rolling and year round closures, redesignated as spawning areas	Closed to gears capable of catching groundfish, with exemptions as appropriate. Option to include recreational groundfishing in the restriction.	Avoid capture of fish during their spawning season, prevent disruption of spawning activity
Habitat research	Year round, triggered	Subsets of existing habitat management areas, or new habitat	At minimum, prohibit use of mobile bottom-tending gears.	Create opportunity for research that investigates the

Alternative type	Year round or seasonal	Which areas comprise the action alternatives?	Type of restrictions (generally)	Rationale
	sunset provision	management areas	Stellwagen area maintains no-action restrictions and also includes a reference area that would further restrict recreational groundfish catch.	relationship between habitat, fishing, and fish productivity

Habitat protection areas are grouped into alternatives, which are organized by region (Gulf of Maine, Georges Bank) and then by sub-region. Spawning protection alternatives are grouped by sub-region. For the habitat management alternatives, there are four possible management measures for each area. Based on previous discussions, staff assumes that these measures can be mixed/matched within the various individual areas. This means that as the Council selects preferred or final measures, they will need to identify a set of management areas, and then select a measure for each area.

- Year-round closure to mobile, bottom-tending gear types, without an exemption for hydraulic clam dredges, or
- Year-round closure to mobile, bottom-tending gear types, with an exemption for hydraulic clam dredges, or
- Year-round requirements that bottom trawls be operated without any ground cables and with a cap on bridle length of 30 fathoms, or
- Year-round requirement that bottom trawls be operated with modified ground cables that have elevating disks and a maximum length per side of 45 fathoms.

The draft management measures for the spawning alternatives are rather complicated. With the exception of the GOM Spawning Protection Area (more commonly referred to as the Whaleback Area), none of these areas were designed solely for spawning protection, so in some cases measures relate more to groundfish mortality control than spawning protection. In general, the alternatives were drafted to reflect no action measures associated with each area, with a sub-option to additionally exclude recreational groundfishing from the area as well. The topic of which exact restrictions and exemptions are appropriate for spawning areas has not been discussed extensively at either a joint Habitat/Groundfish Committee meeting or Council meeting so the staff requested guidance from the Committee as to the measures they wanted to see associated with the various spawning areas.

This led to a Committee discussion of the spawning alternatives in general and their associated measures.

A Committee member was confused as to why the spawning alternatives were included in the document, as he thought they had been removed to a subsequent groundfish action. Staff interpreted that motion (from the May 2013 joint meeting) to mean that some existing areas would be redefined as spawning areas in this action, but that other more significant area

management changes would be taken up later. One Committee member's recollection was that the point was to evaluate the spawning benefits of various areas, and another viewed the current set of alternatives as more of a placeholder/interim action. There was a subsequent Fisheries Survival Fund proposal brought to the Council that identified just the northern section of CAI for redefinition as a spawning area, but otherwise the alternatives in the document are consistent with this initial discussion in May.

The sub-options related to which gears would be prohibited, i.e. to include or exempt recreational gear from the restriction, were included based on initial groundfish committee comments made in January 2013 about including all gears catching groundfish in spawning area restrictions. Otherwise, the restrictions and exemptions specified in the DEIS relate broadly to the no action measures, as noted above. Another approach here would have been to identify the current GOM Spawning Protection (Whaleback) Area measures as the default set of restrictions/exemptions for any areas redefined as spawning areas in this amendment. The Whaleback is the only Council-designated area that has groundfish spawning protection clearly identified as its primary purpose.

A Committee member asked what data have been used to justify definitions of exempted gear. Staff noted that examinations of observer data will be conducted to estimate bycatch rates across all gears. A follow up question was whether this can be done for lobster trap gear as well. The response was yes, to the extent possible given available data. One challenge here is that the spawning action alternatives are based on existing areas, which are not fished much currently, so inferences about catch rates may need to rely on fishing in other areas.

Another question was what mid-water gears are exempted from current areas – including this gear with the exemptions seemed problematic from one Committee member's perspective. Initially, mid-water trawls were not allowed in closed areas; a later framework authorized them based on low groundfish catches. However, this was based on an assessment that there were limited impacts on groundfish mortality rates, and not based on impacts to spawning activity itself. In the Whaleback area, there was a concern that mid-water trawl use would impact spawning activity, and they were therefore not exempted from the area.

Finally, staff introduced the Dedicated Habitat Research Area alternatives. Unlike other sections of the document, where one alternative would be selected for each sub-region or region, these alternatives are more mix and match. Each of the three alternatives includes the boundaries of the areas, the measures for the area, and the sunset provision whereby an area not being activity or imminently used for appropriate types of reach would be eliminated administratively. She also noted that there are frameworkable measures identified in the document, and she also noted that the Council requested a monitoring program be developed for groundfish areas. This monitoring is a work in progress and actively under development by the CATT.

### **Review of informational meetings report**

Next, staff introduced the report summarizing the informational meetings (Document 2). She explained the format of the meetings, the process of soliciting participants, and outlined the contents of the report.

The interviews themselves were very informal, and comments were taken at face value. Following the interviews, staff summarized the approach and comments and the technical teams reviewed each comment and provided feedback and in some cases specific recommendations to the Committees. Many comments will be considered during further development of the DEIS but did not seem to have direct bearing on modification of the alternatives. Four major recommendations of the technical teams were:

- Modify boundaries of Jeffreys Ledge Habitat Management Area (comment #2, Map 2)
- Include Cashes Ledge groundfish closure in the Gulf of Maine spawning alternative (comment #11, Map 3)
- Include a rolling closure of blocks 124 and 125 (or subset of ten-minute squares) in the fall as part of the Gulf of Maine spawning alternative (comments #11, 31, Map 6)
- For the Stellwagen region dedicated habitat research area (Sanctuary Ecological Research Area), consider adding an option for an alternate reference area (comment #39, Map 7)

There were questions about how interviewee eligibility was determined and concerns that the process was outside that normally followed for gathering public input. Staff responded that with the exception of an industry lobbyist, all applicants seeking an interview were granted one, although some groups self-selected out of the process based on communications from the NEFMC Executive Director. For example, groundfish sector presidents and managers determined that they would develop their own comments on behalf of their memberships, using their own internal communication channels, rather than encouraging their individual members to participate in the meetings with Council staff. The Executive Director reminded the Committee that the process was initiated in response to a Council request, and that there was limited staff time to devote to the process. While a comprehensive and systematic outreach process may have been desirable at this juncture in the amendment's development, staff understood early on that was beyond our capacity. In general, the goal was to capture input from individuals who had previously not participated, in order to augment the feedback and information received from stakeholders already involved.

There were concerns raised by some Committee members about revising alternatives to reflect comments made by a small sampling of individuals interviewed, and about revisiting previous Committee discussions that had benefitted from the input of highly involved stakeholders. In response to a question, staff noted that interviewee fishing histories were not vetted in any particular way prior to the interviews. Another Committee member commented that it would have been better to conduct these interviews earlier in the process.

In response to comments about the overall validity of the process, another Committee member reminded the group that the information had been vetted by the technical teams, and that the purpose of the meeting today was to decide if any of the feedback gathered warranted action by the Committee and the Council. He argued that any additional information was potentially useful, given the complexity of the alternative, adding that the Committee and Council would have to decide what to do with the information and technical feedback. Despite these comments, concerns remained amongst some members about modifying alternatives on the basis of feedback generated at these interviews.

Audience member Vito Giacalone (Northeast Seafood Coalition) commented that the Northeast Seafood Coalition submitted comments from sector participants, developed using their own process, rather than getting involved in the Council’s meetings. He felt their response was not adequately reflected in the draft report.

Audience member Greg Cunningham (Conservation Law Foundation) urged the committee to take the information provided in the report as a starting point. He recommended that the Committee make decisions that are supported by data, and are not merely anecdotal observations.

The idea of doing a post-mortem to identify lessons for future outreach was reiterated a number of times throughout the discussion.

In response to a question, the chair reiterated that the intent for the remainder of the meeting was to review the comments and technical feedback and consider any adjustments to the alternatives that seemed appropriate to Committee members.

### **Review and adjustment of alternatives**

The chair then indicated his intent to go through each alternative in the order presented in Document 1, stopping to allow the Committee to ask questions, and make adjustments based on the informational meetings report, as appropriate.

Audience member Tom Slaughter (Atlantic Capes Fisheries Clam Division) asked for clarification about the habitat management area measures. He thought that the June Council meeting vote related to hydraulic clam dredge exemptions meant that this was the way the alternatives would go forward. Staff responded that the Council motion was to include as an option exemption of this gear type, so the alternatives were written as outlined above, with exemption of clam dredges being an additional option should a particular habitat management area be closed to mobile bottom-tending gears.

*Related to the Habitat Management Alternatives for the eastern GOM and the central GOM:*

**Motion 1 (McKenzie, Dempsey) Move to shift the Jeffreys Bank areas into the Central GOM sub-region by making the following adjustments to the alternatives:**

- 1. Remove status quo Jeffreys Bank area from Eastern GOM Alternative 1 (no action) and E GOM Alternative 4**
- 2. Remove modified Jeffreys Bank area from Eastern GOM Alternative 3**
- 3. Add status quo Jeffreys Bank area to Central GOM Alternative 1 (no action)**
- 4. Add modified Jeffreys Bank area to Central GOM Alternatives 3 and 4**

The rationale for this motion was to better reflect some earlier Committee discussions which included Jeffreys Bank in the central area. Staff noted that Committee intent in this regard had been somewhat mixed, with motion for both eastern and central Maine referring to the Jeffreys Bank areas, such that it was a staff decision to include Jeffreys Bank in one region vs. another

when the alternatives were drafted after the June Council meeting.

The intent of this motion was not to adjust the boundaries of either the existing (no action) or modified Jeffreys Bank areas, but to shift them into a different sub-region in the document.

Staff commented that the PDT/CATT discussed in May whether Jeffreys Bank more appropriately belonged in a group with the other eastern Gulf of Maine areas, or with the central Gulf of Maine areas. Jeffreys Bank is really in a transitional zone between the two regions, oceanographically speaking, so it could appropriately be sorted into either region.

Some Committee members wondered why the sorting of areas into alternatives was important. On the one hand, the analysis of individual areas will be completed regardless, but the grouping of areas will affect the comparative analysis of the alternatives that combine multiple areas, and the grouping at this stage may have bearing on the suite of areas ultimately selected. This line of discussion fed into a general theme throughout the day's deliberations, i.e. what is the intent of defining alternatives at this stage, and how much can or should they be expected to change during future deliberations?

**Motion 1 carried on a show of hands 9/0/1.**

*Related to the Habitat Management Alternatives for the western GOM:*

A Committee member asked why the Bigelow Bight areas were still included in the various alternatives as he remembered previous Committee decisions to remove those areas from further consideration. Staff recounted the technical recommendations made at the Committee's June 11 meeting about the mix of western GOM areas recommended to meet objectives. The Council then approved a subset of these alternatives at their meeting later in June.

Audience member Vito Giacalone (Northeast Seafood Coalition) commented that he felt it was important to include for analysis an alternative that involved just the SERA II/Large Stellwagen area, and no other habitat management areas. He was involved in extensive outreach to develop the SERA II boundaries, and noted that industry support for the area is based on the understanding that the area would be the only year-round habitat management area in the western GOM.

**Motion 2 (Alexander, Kendall) Include an additional alternative for the WGOM region that is comprised of the Stellwagen Large habitat management area only.**

The rationale for this motion was that if it was likely, or at least possible, to end up with this outcome later due to Council decisions at final action, it seemed useful to evaluate this specific alternative now.

The intent of this motion was to add an additional western GOM habitat protection alternative to the document.

Staff commented that to the extent possible, it was important for the Council to signal intent when crafting these alternatives, making it easier for the public to identify likely outcomes of the action. While the Council may adjust the areas included in a particular alternative later in the process, either at the preferred alternative stage (November 2013) or at the final decision stage (scheduled for April 2014), changes to alternatives from what is analyzed in the EIS document will necessitate updating the analysis, which would add time to the process. In short, if eventual approval of this alternative is likely, it would make sense to identify it now.

One Committee member was concerned that this motion was simply creating additional and possibly unnecessary work, especially if the Council can modify alternatives later on decision making process.

Another Committee member reiterated an earlier concern that despite prior Committee motions, the Bigelow Bight areas were still part of the alternatives. He voiced his intention of stripping the areas out at the Council meeting, and stated that while he had no problem with the motion as written, that you could go further to actually do what Mr. Giacalone recommended.

**A substitute to Motion 2 was offered: (Alexander, Kendall) Remove the Bigelow Bight area from WGOM habitat management alternative 3 so that alternative 3 is comprised of the Stellwagen Large habitat management area only.**

The rationale for this motion was that it substituted an alternative that was concerning to some, rather than adding an additional alternative to the analysis. The intent of this motion was to maintain the same number of alternatives for this sub-region, by Alternative 3.

A Committee member noted concerns about this alternative, given an assessment that the Bigelow Bight area was important for conservation of juvenile groundfish habitats, and another agreed. Another Committee member disagreed with this, stating that there was adequate habitat protection without the Bigelow Bight area.

Another Committee member raised the issue of how to move forward with the sub-regional approach in general. His assessment was that at final action, he would look at the resource overall across all the GOM sub-regions, to make a decision that would meet goals and objectives for the entire Gulf of Maine. The implication was that this could mean modifying alternatives later based on a review of the impacts analysis, which has been the general assumption throughout recent Committee and Council deliberations.

Audience member Ron Smolowitz (Fisheries Survival Fund) felt it was better not to tinker too much with the alternatives at this stage, unless something is clearly missing from the range. He reminded the group that we're going to be looking at the economic impact of each of these alternatives. He also reiterated comments made at earlier meetings about concerns that it will be hard to differentiate in the analysis between alternatives that are very similar, citing the Great South Channel/Nantucket Shoals areas as an example.

Maggie Raymond (Associated Fisheries of Maine) was supportive of either version of the motion. She commented that no action was not the right choice here, and that if the goal is to



identify grouped of areas as alternatives at this stage, it was important to have an option without the Bigelow Bight Area, which she warned was not feasible economically.

Audience member Vito Giacalone (Northeast Seafood Coalition) differed with the comment that the Bigelow Bight was a key area for conservation of juvenile groundfish habitats. He noted that if it was necessary for every alternative to meet the goals and objectives, we wouldn't see the no closure options in the document.

**The motion to substitute failed 4/6/1. Motion 2 as originally proposed carried 6/2/2.**

There was again discussion about whether or not alternatives will be able to be modified during final decision making. The chair commented that they can be, although changes will require updates to the EIS document to ensure that all alternatives are analyzed appropriately, which could slow down the process. The goal was to try to get the alternatives and corresponding analysis as close to the final outcome as we can. Of course the public will identify issues and the Council may change the alternatives based on the results of the public hearing and comment process.

Audience member Jackie Odell (Northeast Seafood Coalition) commented that if the Council is willing to modify the combinations of areas that form the alternatives later, that this should be made clear in the public hearing document. She expressed concerns about public confusion, and felt it was important to clarify for the public that comments on the costs and benefits of individual areas, not just particular combinations of areas, were being solicited.

*Related to the Habitat Management Alternatives for Georges Bank:*

**Motion 3 (McKenzie, no second) Add to Georges Bank habitat management alternatives 3 and 4 the Closed Area II habitat closure area and the Georges Shoal east and west areas.**

The rationale for this motion was to increase the amount of habitat protection on Georges Bank.

**Motion 3 was ruled out of order by the Chairman as going beyond adjustments/corrections into a major modification of the alternatives.**

The Committee discussed the letter sent by the Regional Administrator regarding a suggested alternative habitat management area on the northern edge of Georges Bank. The letter cited concerns about the practicability of the current northern edge HMA as it overlaps substantially with the northern edge sea scallop resource.

**Motion 4 (Grout, Griffin) That the Committee direct Council staff to refine the boundaries of the habitat management area identified in the August 30, 2013 correspondence from NERO. Modifications to the area should attempt to provide additional access to the sea scallop resource while protecting habitats vulnerable to fishing gear that are used by juvenile groundfish, including cod and haddock.**

The maker of the previous motion wondered why this motion was appropriate when the previous

one had been ruled out of order. He was concerned that the proposal was received at the last minute and felt that there was no particular vetting of this alternative that made it any more valid than a reconsideration of areas that had previously been analyzed by the PDT identified in Motion 3.

Although the chair raised the possibility that the current range might not meet the NEPA requirements to have a sufficient range of alternatives, NERO staff countered that their comment was all about practicability. Specifically, we either end up precluding access to significant scallop grounds, or with no habitat management area at all. Neither option seemed ideal. Their proposal was intended to balance scallop access and habitat conservation. Another Committee member agreed that this tasking to develop an intermediate option between alternatives already in the document was a ‘safe’ middle ground.

In response to a question about the intent of the motion, a Committee member clarified that she felt the motion was simply intended to direct the staff to develop an additional option. In general she felt that it was good for NERO to weigh in earlier than later and another member agreed that the early input was welcome.

Audience member David Stevenson (NERO habitat staff) reviewed their rationale, noting that they viewed the exact recommendation as a strawman proposal that had the right concept but could be developed in greater detail with additional review of the data. In their view, shifting the existing CAII habitat area north and removing some of the southern portions of it seems to provide acceptable habitat protection while leaving an area open for future consideration for a scallop access area. A subset of the area identified on the chart as the “pristine area” has unusually high abundance of epifauna and therefore represents a particularly valuable piece of habitat.

Audience member Greg Cunningham (Conservation Law Foundation) didn’t take a position on the motion but urged consistency in the ground rules operant during the meeting. He commented that the current alternatives for GB are minimalist, and would reduce habitat protections from 3000 nm<sup>2</sup> to 500 – 600 nm<sup>2</sup>. While this new area would broaden the range of alternatives, it would broaden them in the direction of less protection. He felt it would be appropriate to modify the alternatives in the other direction as well, to increase protection. In response to a comment from the chair that they were not going to make large changes to alternatives approved by the Council, Mr. Cunningham asked if this area was intended to provide a basis for an additional future alternative?

Audience member Drew Minkiewicz (Fisheries Survival Fund) agreed that it was good for the agency to be coming forward with concerns, but expressed frustration that his organization had not been contacted to discuss the issues. He also took exception to the notion of a “pristine” area on the northern edge, arguing that the area has been fished in the past. He also argued that there are adequate options in the document from a NEPA perspective, and had a problem with adding new alternatives at this meeting.

Audience member Maggie Raymond (Associated Fisheries of Maine) asked whether staff could look at mid-water trawl activity in the area, citing concerns about haddock bycatch.

Audience member Ron Smolowitz (Fisheries Survival Fund) commented that this option was intermediate between various areas already being analyzed, such that an additional alternative at this stage was unnecessary. His concern was the ultimate outcome. He argued that heavy “smothering” epifaunal growth is problematic. He also commented that dredges don’t pick up large cobbles, but rather the habitat is comprised of finer gravels, the size of cornmeal. He noted FSF was going to support no closure from a practicability standpoint in that you’re not going to see the benefits of habitat management areas. He felt that we have spent two years developing these options, and it was foolish to start redeveloping options that we threw out two years ago. He recommended not adding anything at this time as it should come out in the analysis anyway.

Audience member Vito Giacalone (Northeast Seafood Coalition) commented on the importance of groundfish fishery access to relatively deepwater habitats along the edge itself, i.e. 50-70 fathoms.

Audience member Gib Brogan (Oceana) asked what would happen if the motion was passed. Staff commented that there could be a couple of different outcomes. The staff would work on developing a different area and bring to technical teams. The Council could choose to substitute that proposed area for the northern edge area currently in alt 3, or create an additional alternative that includes the area. NERO commented that they would like to see an additional alternative, rather than a substitution. He later suggested that it might be appropriate to direct the staff to develop something with equivalent protection as compared to the existing Northern Edge area.

Staff commented that the approach, if the motion passed, would be to develop something, and incorporate it into the document and analyze it along with the other proposed alternatives. The Council can reject the area at the November meeting, or even in September, but given the short time frame, it was necessary to push forward quickly with the analysis.

A Committee member commented that he was voting against the motion as the agency had waited too long to make this comment, and that they should have let the Council know of their concerns sooner. He also disagreed with the notion of a “pristine” area.

**A substitute to Motion 4 was offered: (McKenzie, Blount) That the Committee direct Council staff to refine the boundaries of the habitat management area identified in the August 30, 2013 correspondence from NERO. Modifications to the area should attempt to provide additional access to the sea scallop resource while protecting habitats vulnerable to fishing gear that are used by juvenile groundfish, including cod and haddock. The final boundaries should ensure conservation equivalency to the existing HAPC area.**

The rationale for this motion was that any new area should provide equal conservation benefits while mitigating practicability concerns.

There was debate amongst the Committee about the meaning of conservation equivalency and whether this motion was too limiting on the staff. One member raised concerns that it could be complicated to define equivalent, and that this would slow down work unnecessarily.

Audience member Drew Minkiewicz (Fisheries Survival Fund) reminded the group that the primary concern identified in the agency letter was practicability. The conservation equivalency evaluation would not be simple.

**The motion to substitute failed 1/9/1. Motion 4 as originally proposed carried on a show of hands 6/4/1.**

A Committee member asked whether the Council agenda for September included consideration of new habitat alternatives. He felt it was important to signal that to the public. The Executive Director commented that the draft agenda says the Council will approve possible modifications based on any recommendations made by the Committee. Thus, adjustments not evaluated by the Committee would be considered out of order. In his view, the motion just passed related to the northern edge would constitute a recommendation of the Committee coming up to the Council.

**The main motion carried on a show of hands (6/4/1).**

After a break for lunch and a closed session of the Habitat Committee to review Advisory Panel applications, the meeting resumed.

*Related to spawning protection alternatives in the GOM:*

**Motion 5 (Griffin, McKenzie) Adjust the current rolling closure in blocks 124 and 125 to Move to include as part of the Alternative 2 Spawning Protection Areas a “Southwestern Massachusetts Bay Cod Spawning Closure Area” bounded to the north, south and west by the MA state waters line and to the east by a straight line connecting the following points in order (see figure below perfected version of motion):**

Point	North Latitude	West Longitude
1	42 degrees 23.6’	70 degrees 39.2’
2	42 degrees 07.7’	70 degrees 26.8’

**The closed area would apply from November to January with the same gear prohibitions and exemptions as the existing Whaleback Cod Spawning Closure Area.**

The rationale for this motion was to protect a known aggregation of spawning cod in Massachusetts Bay, based on substantial scientific evidence outlined in the correspondence from Massachusetts Division of Marine Fisheries.

The intent of this motion was to modify GOM spawning alternative 2 to add this area.

There was some discussion about whether spawning protections were actually moved to a different action. It was clarified that the Council intended to evaluate additional changes to spawning areas in a future groundfish action, but that there were limited spawning alternatives in the document consisting of a modified implementation of existing areas.

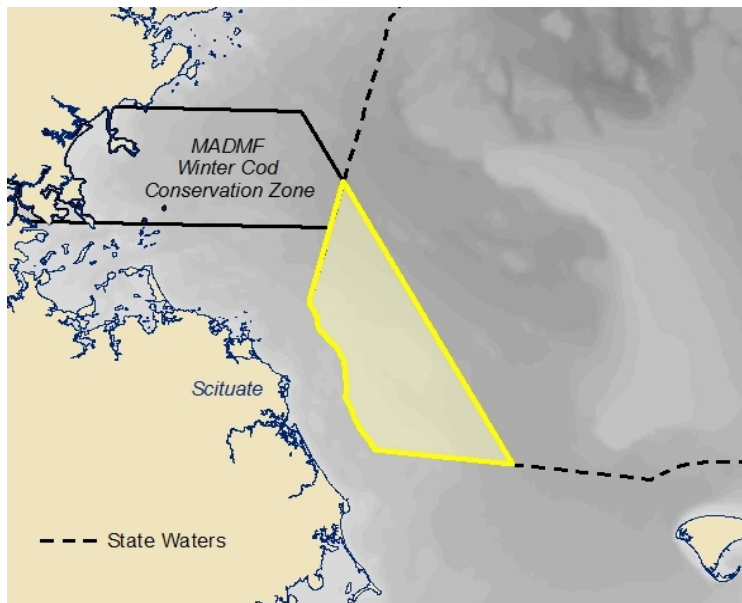
One Committee member asked about the seeming incompleteness of the amendment in that

spawning protections were only being considered for groundfish stocks. Staff acknowledged that while spawning protection is part of habitat protection in a larger sense, in that EFH includes habitats that support “spawning, breeding, feeding, and growth to maturity”, the Council had generally been developing alternatives focused on protection of complex seabed habitats in this amendment. When consideration of revisions to the various groundfish closed areas were added to the action, new goals and objectives were added as well and approved by the Council. One of these included enhanced protection for groundfish spawning activity. Obviously the goals and objectives could be more comprehensive to focus on protection of spawning for other stocks, but that was not the way they were approved. Another Committee member agreed that while many groundfish stocks were particularly in need of spawning protection, that the scope of the amendment was unfortunately rather limited. Another argued that given this limited scope, it might be more sensible to pull all of the spawning alternatives out of the amendment.

**Motion 5 was perfected as follows: (Griffin, McKenzie) Move to include as part of the Alternative 2 Spawning Protection Areas a refinement of the current rolling closure blocks 124 and 125, an area bounded to the north, south and west by the MA state waters line and to the east by a straight line connecting the following points in order:**

Point	North Latitude	West Longitude
1	42 degrees 23.6'	70 degrees 39.2'
2	42 degrees 07.7'	70 degrees 26.8'

**The closed area would apply from November 1 to January 31 with the same gear prohibitions and exemptions as the existing Whaleback Cod Spawning Closure Area.**



**Figure 1 - Motion 5. Proposed spawning area outlined in yellow.**

The rationale for this motion was to indicate that the area is really a subset of an existing rolling closure area with modified timing, rather than a completely novel alternative. Thus, this area is in keeping with the general approach that the spawning alternatives in this amendment represent a

modified implementation of existing areas.

There were some concerns about this being a fairly major change, but the committee also discussed that timing of a future action to address spawning protection as very uncertain.

Audience member Jackie Odell (Northeast Seafood Coalition) clarified that the measures would be those associated with the GOM Cod Spawning Protection (Whaleback) Area. She went on to comment that their working group had a preliminary discussions about other spawning areas being considered, and that many fishermen felt that there needs to be a full discussion of existing areas, as well as monitoring of future or continued closures. This may be a great alternative but industry would like to review it first.

Audience member Ron Smolowitz (Fisheries Survival Fund) commented that with regard to spawning activities, we don't know as much as we think we know. While he wasn't familiar with this particular area, he noted that spawning is complex, involves behavior, and is shifting [in space and time]. He felt a better strategy would be real time monitoring and triggered protections.

Audience member Greg Cunningham (Conservation Law Foundation) spoke in support the motion, viewing this area as critically important based on goals and objectives as discussed. This is EFH. In our opinion, the NEPA concerns are not yet fully addressed and won't be until there's final action on this. He did have issues with taking this action and not taking up a motion to increase protection of the northern edge (motion 3, which was ruled out of order). He felt that a different standard was being applied. He noted that the areas identified in that motion had been analyzed previously by staff, but that this specific area had not been.

**Motion 5 as perfected carried on a show of hands 5/4/1.**

This led to a general discussion of fishing restrictions appropriate for spawning protection areas.

Staff commented that the rolling closures, which constitute the basis for much of GOM spawning alternative 2, extend to the beach. He asked for clarification that this was the intent for the action alternative, and the Committee confirmed that it was. (A previous Committee motion to exclude state waters was related to year-round habitat management areas focused on protection of juvenile groundfish habitats.)

A Committee member asked whether mid-water trawl gear should be included on the list of exempted gears shown in Table 34. While Table 34 is specifically related to no action measures, the real point of the comment was to identifying which exemptions are appropriate should the action alternative be selected.

Staff commented that there is a distinction between “exempted gears” which catch less than 5% regulated multispecies, and other fisheries that are exempted from various area closures. Also, we intend on including in the analysis the recent bycatch rates by gear type. The Council can always modify the list of exemptions for various areas based on this analysis.

A Committee member directed staff to analyze each of gears for its appropriateness for accessing spawning areas. Staff commented that it would be important to identify for the public that the various exemptions could be adjusted individually by the Council during final action.

Beyond bycatch rates, one facet of the evaluation should be whether a specific gear disrupts spawning activity. Unfortunately, in many cases we don't have good information about fishing effects on spawning behavior.

There was also a comment about inconsistency between the closed area regulations and the recreational fishery regulations, specifically regarding the Nantucket Lightship Area.

Audience member Maggie Raymond (Associated Fisheries of Maine) supported the idea of analyzing which gears are appropriately exempted from spawning areas, but was concerned that ultimately the decision might come down to public comments and perceptions.

Staff commented that the analysis should include what each gear type/exempted fishery program is catching in each area.

*Related to spawning protection alternatives on Georges Bank:*

Staff asked the Committee to clarify its intent regarding the GB Seasonal Closure Area, which includes areas around CAI and between CAI and CAII, and is closed to common pool groundfish vessels during the month of May. As currently implemented, this area probably offers limited protection for spawning because it applies to only a few vessels. Implementing this area for most groundfish vessels may not be what the Committee had envisioned when it added the area to the action alternative. In addition, the area appears to be designed to fill in around the current year round closures CAI and CAII, not as a stand-alone area. Certainly the area overlaps in space and time with some groundfish spawning activity – the question is how to specify the alternative.

One Committee member felt that since the area applied only to 6 or 8 boats it would be virtually useless for spawning protection, so he didn't see the need to keep the area as part of the spawning alternative. He remembered the May area was a tradeoff for the rolling closures in the GOM.

Staff emphasized that the alternative as written in the document would close the area to a larger number of vessels, so it would be more effective for protecting spawning than it is currently. However, GB spawning alternative 2 as currently drafted would close CAI and CAII from February through April, and then reopen them in May only to close adjacent areas. While this may be appropriate, it would be good for the Committee to confirm their intent.

Another Committee member wondered whether it would make sense to keep the May area and CAI as May spawning closures, and another summed up the issue as should the Council expand the restrictions in the area or remove it entirely going forward. He felt that if the area is currently providing limited benefit, it would be obvious in the analysis.

While another agreed that it was appropriate to consider as part of the spawning alternative for

now and remove it from the alternative later as appropriate, the opposite view was that it is a waste of staff time and effort to analyze the area in the action alternative if it has limited benefit.

**Motion 6 (Alexander, Ramsden) To remove the May Georges Bank Seasonal Closure Area from Georges Bank Spawning Alternative 2.**

The rationale for this motion was that the area is currently closed to a small number of vessels and therefore offers limited spawning protection. Also, there was discussion that the area was originally developed as a seasonal mortality control measure analogous to the GOM rolling closures.

The intent of this motion was that if the action alternative for spawning protection on Georges Bank is adopted, it would remove the May GB Seasonal Closure Area from the groundfish plan.

Audience member Ron Smolowitz raised a somewhat tangential point about how the area in question lines up with stock boundaries. The point seemed to be how you would evaluate which stocks are being protected by this area. He wondered whether stock boundaries should be adjusted. Staff noted that evaluating whether or not the stock assessments accurately capture the boundaries between various stocks goes well beyond the purpose of this amendment. The analyses in this action will consider groundfish protection with respect to stock boundaries as currently identified.

Audience member Maggie Raymond (Associated Fisheries of Maine) agreed with an earlier Committee member comment that this area was never a spawning closure, but rather it was a mortality closure, and felt that it is not appropriate to call it a spawning closure in this document.

**Motion 6 carried 7/1/1.**

*Dedicated Habitat Research Area alternatives*

Staff advised the Committee that a significant fraction of the discussion at the informational meetings was related to concerns about impacts of the reference area component of the Sanctuary Ecological Research Area on recreational fishing. The reference area comprises the southern part of the research area, and would be closed to recreational as well as commercial groundfishing in order to evaluate the ecosystem effects of groundfish removals. Currently, there are no areas where all groundfishing is prohibited on a year round basis. The reference area was located and sized in such a way as to increase the chances of detecting an effect. Specifically, the area needs to be located in an area where there is currently a fair amount of recreational removals, so there is a large contrast between recreationally fished and unfished once the research area is implemented. Also, area needs to be fairly large, given the movement of the groundfish species living in the area.

The technical teams discussed these issues and recommended that one way forward would be to evaluate an alternate reference area. An alternate reference area option shifted five miles to the north seems to encompass an appropriate mix of habitats and enough current recreational groundfishing effort to provide a suitable contrast, but would hopefully reduce economic



concerns as it would be a bit further away from some of the ports. One benefit of the existing design is that there are two long term monitoring stations in the currently identified reference area.

The Committee concluded that it was not necessary to add an additional reference area option to the range of alternatives being analyzed in the DEIS.

**Motion 7 (McKenzie, Ramsden) To remove sub-option 2 from 9.3.3 (SERA DHRA section) to correct the record and better reflect the June 2013 document approved by the Council.**

The intent of this motion was have only one option for the configuration of the Stellwagen research area in the DEIS, rather than explicitly identifying the research area without the reference area as a sub-option.

The rationale for this motion was that this change would better reflect earlier versions of documents where a single research area configuration, including the reference area, was identified.

**Motion 7 carried on a show of hands 6/0/2.**

### **Monitoring and framework measures**

Staff reminded the Committee of two decisions made at the June Council meeting. One was to add the juvenile groundfish protection areas and groundfish spawning protection areas to the list of frameworkable items in the Multispecies FMP. Another was to have the Closed Area Technical Team develop a monitoring program for evaluating these types of areas.

Before the most recent technical meeting, a working group of the CATT developed an initial proposal (Document 5). The CATT then had some discussion of how framework adjustments would be triggered, who would be involved, and what information would be needed. This item will be discussed at the next technical meeting in September. One initial conclusion was that a five year review appears to be a reasonable time frame for reevaluation, three years being too short and ten years too long.

Audience member Maggie Raymond (Associated Fisheries of Maine) encouraged the Council to give the staff the opportunity to further develop these items with input from stakeholders, noting that she has been looking for something like this for 20 years. She stated that it would be essential to understand whether we are getting something useful from fishery closures.

### **Other habitat-related issues**

One of the NERO representatives relayed concerns that had been shared with her office regarding impacts of reopening Closed Area II on the offshore lobster industry. The chair noted that he had heard those concerns as well. He wondered if the primary issue was gear conflict.

Staff noted that they had a similar discussion with lobster industry members at the informational meetings.

Another Committee member commented that the Atlantic States Marine Fisheries Commission would be sending a letter to the Council expressing their concerns on this matter.

The chairman asked if there were any questions on the Omnibus EFH Amendment 2 timeline, and there were none. In terms of Council priorities for 2014, staff commented that completion of OA2 was a top priority, and reminded the Committee that development of the coral amendment was largely on hold pending completion of OA2. She noted that the Mid-Atlantic Council is actively working on a similar action as an amendment to their Squid, Mackerel, Butterfish FMP. NEFMC and MAFMC staff members are collaborating on these actions as needed per the recent Memorandum of Understanding.

### **Multispecies Framework 51 and groundfish priorities for 2014**

Next, the Groundfish Committee discussed issues related to the development of Framework 51 and some audience members commented on possible 2014 groundfish management priorities. Staff provided an update on the SSC discussion of Georges Bank (GB) yellowtail flounder ABC and OFL and haddock spillover; staff did not present the SSC report. The SSC concluded that the GB yellowtail flounder ABC for 2014 – 15 should be less than 500 mt and catch should be reduced as much as practicable. The SSC made some recommendations for improving the GB yellowtail flounder assessment in the future. The SSC concluded that there was no technical basis to adjust the GB and GOM haddock quotas to account for haddock spillover. Any further examination of this issue would be more appropriate in a stock assessment or in directed research.

A Committee member informed staff that they would be provided with discard rates from 2010 – 2013 for a number of sectors for trawl and gear net fisheries; it was unclear what the Committee member intended this data to be used for. Staff had not developed any management alternatives to address haddock spillover after the PDT and SSC conclusions and requested guidance from the Committee for such an alternative. Some public comment was allowed regarding Groundfish Priorities for 2014 in order for Committee members to consider it prior to the September 17, 2013 Committee meeting.

Public comment included:

Jackie Odell (Northeast Seafood Coalition) – Last Friday, I submitted a letter to Mr. Stockwell that was also sent to many Groundfish Committee members. It was basically a request from the Northeast Seafood Coalition to begin to create this space, we don't have anything specific in mind but we have had various conversations with folks within the scientific realm about using different approaches for setting catch advice. Basically because of the issues that we've seen with the models and the noise that exists within the models and the retrospective patterns that exist in the models we believe that being in a groundfish crisis with the most significant one occurring right now we feel this is a good time for a long term goal for us to begin to think about alternative approaches to be used for setting catch advice for certain groundfish stocks. I don't

have anything specific in mind to mention here today but just hope that when Council priorities are reviewed and considered over the next year that you put that on your plate. There's just so many examples that I could talk about but we just feel that there's no stability in the fleet and somehow we need to smooth out the catch advice over the long term rather than chasing highs and chasing lows it's just complete instability in the fleet we do not have a sustainable fleet and we need to be doing more to get to that sustainability. One of our proposals and recommendations is to think about alternative approaches to setting catch advice.

James Odlin (Commercial groundfisherman, Portland, ME) – I submitted the letter to the Acting Chair the other day that it's come to my attention that there's been horrendous, massive dumping of haddock in the mid-water trawl fisheries on GB. I spent nine years up there reading the data and I truly didn't think it was going on. Either I was duped or I missed something. We had vessels chasing haddock, that's what we do, we are haddock specialists and have been since I started fishing and we chase them whenever we can. We now know we have a second record year class in recent times of haddock getting ready to recruit in to the fisheries and we've had boats out on the Cultivator and on the edge of GB all over the east trying to prosecute that fishery. In the last few months, we've run into up to nine mid-water trawl boats fishing in that area. I have captains that are very experienced, I've had captains that have done both fisheries and they know exactly what they're looking at and they've seen some horrendous dumping where the ocean is white. When I say dumping we're talking 100 tons at a whack. I cannot now say something about it because it's too obvious and if you look back we don't know what happened to the 2003 year class that fell off the cliff, we never harvested it. Maybe we missed it, maybe it got dumped. I just want to make sure this doesn't happen again. I don't understand how it's fallen through the cracks. It was my understanding that when I started looking at this I looked at the data of what they were catching and landing and I didn't see any fish or any amount of haddock being reported under their recording but since I guess it's been upgraded, the data. I didn't know it was updated because they weren't reporting anything being landed in the system. We hear lots of stories of haddock in bait and Connors brothers in CA stopped taking herring from them because there was so much haddock in there. That wasn't being recorded in the landings but again since then it's been updated so maybe that monitoring is going on. I ask the Council to look at that. I also want to ask the Council to find out how is this dumping happening? I thought we took care of this. They have some observer coverage, how are the observers missing it? I've heard stories of how they have figured out how to let the herring sink, split off the haddock with the middle choker, pump until they get water and then dump the rest and tell the observer they didn't have any haddock. Either the observers are not being properly trained and they're missing the dumping something's going on because we're seeing it. I hope you look into that because the only thing the GF industry has that's going to be able to keep the infrastructure or any semblance of the fleet going is the haddock, there's nothing else. It's not going to float every boat but it's going to float some and if we lose that you might as well just close it and the processors will have to close and there will be no New England fish because this can't go on. This may not be a priority but while I'm up here I heard you mention discards. One thing that's going on and we're finding discrepancies between what our captains reporting on a given trip discarded and what the observers are reporting. What's happening is the way that they're doing this is they extrapolate from a bag. They go out on deck they'll see a bag of fish and measure it this way and that way and say well, this adds up to so much fish and then they'll take a bushel out of one corner of it, count through the bushel and say there was 10 grey sole and 20 dabs and

that's how they come up with the discards. Well anybody that knows how groundfishing works knows that one section of the checker is not representative of the other section of the checker especially if you put 10000 lbs of dogfish. Through this extrapolation method they are way over inflating discards. I think that somebody has to ask the NEFSC to do a study and find out if this extrapolation method is correct because I know if you put three observers on a boat one of them does the extrapolation measure and then you make them measure every fish they'll come up with wildly different estimates. We've had cases recently where they claimed we kept 50 lbs of fish and discarded 450 of pollock. We've never had that kind of ratios; it just doesn't happen in 6.5 inch mesh. It's never happened before. You talk to the observer and they say this is the way we're trained. It's wrong. I'd ask the Council to ask the NEFSC to reevaluate their extrapolation measure on discards because it's wrong.

Maggie Raymond (Associated Fisheries of Maine) – Associated Fisheries of Maine will be writing a letter to the Committee before the next meeting with some suggestions for priorities but let me say first that we support the ideas that have been proposed by the Northeast Seafood Coalition about looking at different ways to set catch levels. Again, I don't know what those ways are but clearly we're having a problem with what we're doing so we need to look at alternatives. I would urge the Committee to think about as an overarching goal for the plan is to try to figure out a way for us to bring more fish across the dock. For the past 20 years all we've done in groundfish is how to figure out how to catch less fish and we have stocks that can take increased pressure. I know the Council worked hard on some mitigation measures in the last framework adjustments and unfortunately none of those have brought any relief to the fleet at all. I thank the Council for their work on that because I know you took that seriously but there has been no mitigation at all for the reductions in ACLs that we've had for this year and will continue for several years into the future. I always like to say is think about could you put a man on the moon, nobody thought you could ever put a man on the moon. We did, we can figure out if you go into a meeting with a mindset that you want to allow the industry to catch fish, I do believe we can all figure out a way to do that. That's what we need to do because that will solve a lot of problems. We need to try to maintain some semblance of this fleet. Bringing fish across the dock solves a lot of problems, it solves your fleet diversity problems, it solves your processor problems, and it solves your economic problems in the fleet. It won't solve the problems for everybody because there isn't enough of some species to help everybody but we've got to try to figure out a way to do that and urge you really to think big. Think big. How can we bring more fish across the dock because the economic impacts of what's happening now are severe and they're not going to get any better anytime soon unless we can do that. Please keep that in mind.

A Committee member asked Mr. Odlin if they were extrapolating on the boats fishing on the eastern edge of GB; recent TMGC estimates of Eastern Georges Bank cod landings and discards were 91 mt and 55 mt, respectively. The Committee member considered the extrapolation method to be an important issue that needed to be examined ASAP in order to get some real numbers.

A Committee member asked NMFS NERO about Mr. Odlin's comment regarding haddock dumping whether the Agency can start looking at these things immediately without a request from the Council. It was suggested that questions about the extrapolation method should be posed to Dr. Karp of the NEFSC potentially at the September 2013 Council meeting or in a

letter. The Agency has also heard about haddock dumping in the herring fishery. Another Committee member pointed out that measures were included in Herring Amendment 5 to end dumping and to provide accurate estimates but these were disapproved by the Council; dumping restrictions are in place in areas and they seem to be working. There was some concern about the measures based on safety issues.

The meeting adjourned at 4:56 p.m.