

**Memorandum of Understanding  
Regarding the Management of Deep Sea Corals**

Between

New England Fishery Management Council

Mid-Atlantic Fishery Management Council

South Atlantic Fishery Management Council

**A. Purpose**

The purposes of this Memorandum of Understanding (MOU) are: 1) to establish a framework for coordination and cooperation toward the protection of deep sea coral ecosystems; and 2) to clarify and explain each Council's role and geographic areas of authority and responsibility with regard to deep sea coral management.

**B. Background**

Deep sea corals are typically found at depths greater than 50 meters on the continental shelf and slopes, in offshore canyons, and near seamounts. Many of these species form complex three-dimensional structures that provide important habitat for many species of fish and invertebrates, enhancing local biodiversity. Because these corals are fragile and slow-growing, they are particularly vulnerable to disturbance from certain types of fishing gear. While the extent of deep sea coral habitat degradation has not been quantified in most areas, bottom tending fishing gear has been known to cause significant disturbance in many locations, and is considered to be the major threat to deep sea corals in areas where such fishing occurs.

Deep sea corals are present within the jurisdictional boundaries of the three Parties to this agreement: the New England Fishery Management Council (NEFMC), the Mid-Atlantic Fishery Management Council (MAFMC), and the South Atlantic Fishery Management Council (SAFMC) (collectively, the Councils). Each of these Councils has previously taken or is currently taking actions to mitigate the impacts of fishing gear to enhance deep sea coral protections. Because such management actions may affect fisheries operating in more than one Council jurisdiction, the Councils recognize the need for communication and broad-scale coordination regarding measures to protect deep sea coral ecosystems.

**C. Authority and strategies for deep sea coral protections**

The Magnuson-Stevens Fishery Conservation and Management Act (MSA)<sup>1</sup> is the main source of authority under which the Regional Fishery Management Councils may take action to protect deep sea corals from fishery impacts. The SAFMC currently has management and conservation measures in place for deep sea coral ecosystems; the NEFMC and the MAFMC will each continue development of management measures to protect corals within their regions while preserving current and future fishing opportunities. These management measures may differ among the Councils, and may include some combination of the following:

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<sup>1</sup> The MSA is found at 16 U.S.C. § 1801, et seq.

- Designation of coral protection zones based on the discretionary authority described in Section 303(b)(2)(B) of the MSA. These zones could include but are not limited to:
  - Large precautionary areas based on a freeze-the-footprint approach<sup>2</sup>
  - Enhanced protections in areas known to or expected to contain high concentrations of corals
- Designation of deep sea corals as a component of Essential Fish Habitat or as Habitat Areas of Particular Concern
- Minimizing bycatch of deep sea coral species
- Special access programs to provide for continued fishing in or near coral areas for specific fisheries or gear types
- Exploratory fishing programs to allow for future development of new fisheries in a way that protects corals
- Management as habitat pursuant to a Federal Fishery Management Plan (e.g., SAFMC).

#### **D. Council boundaries and geographic areas of responsibility**

Each Council will be responsible for the mitigation of fishery impacts to deep sea corals within each Council's geographic area of authority, as defined in 50 C.F.R. §§ 600.105(a) and (b). The NEFMC-MAFMC boundary begins at the point of intersection of Connecticut, Rhode Island, and New York ( $41^{\circ}18'16.249''$  N. lat. and  $71^{\circ}54'28.477''$  W. long.), and proceeds south  $37^{\circ}22'32.75''$  East to the point of intersection with the outward boundary of the EEZ as specified in the MSA. The SAFMC-MAFMC boundary begins at the seaward boundary of Virginia and North Carolina ( $36^{\circ}33'01.0''$  N. lat.), and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the MSA. The MAFMC area of authority contains major canyons from Block Canyon to Norfolk Canyon, while the NEFMC will develop measures for Alvin Canyon and areas north within its area of authority.

The South Atlantic Council manages coral ecosystems pursuant to the Coral, Coral Reef and Live/Hardbottom Habitat of the South Atlantic Region Fishery Management Plan. Coral Habitat Areas of Particular Concern established under this plan are also designated Essential Fish Habitat - Habitat Areas of Particular Concern, further acknowledging the importance and complexity of benthic habitats encompassing the deepwater coral ecosystem.

#### **E. Council coordination on deep sea corals issues**

1. The Councils will seek continuity among coral-related management measures in all three Council regions, especially where there are fisheries that overlap between regions. This may include:
  - Consideration of similar management alternatives in fishery management plans for adjacent regions.
  - Consideration of fishery overlap and engagement of stakeholders outside of the management region in the development of management measures.
2. The Councils will also share data and information to improve current and future decision making:
  - Encourage data collection to support coral management.

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<sup>2</sup> Approach would not restrict current fishing effort but would establish larger areas where management measures be applied to prevent expansion of effort into areas that are not currently fished.

- Share coral data, fishing effort data, and GIS resources related to development of management measures.
3. The Councils will contribute to coordinated management efforts in the following ways:
- The NEFMC and MAFMC will share technical information and data, including NEFMC Habitat Plan Development Team (PDT) work products related to Mid-Atlantic canyon and slope areas.
  - MAFMC staff and/or the MAFMC liaison to the NEFMC will attend NEFMC Habitat PDT and Oversight Committee meetings relevant to corals, and NEFMC staff and/or the NEFMC liaison to the MAFMC will attend relevant MAFMC meetings.
  - The SAFMC will advise the NEFMC and the MAFMC on coral and deepwater ecosystem issues based on past experiences and lessons learned.

#### **F. No agency**

Each Party signing this MOU is acting as an independent contractor. No Party to this MOU is intended to have any authority or control over any other Party, nor shall any Party have the power to bind any other Party. Each Party will be responsible for bearing the costs incurred in performing any activity contemplated within this MOU.

#### **G. Funding**

Cooperative activities under this MOU shall be subject to the availability of funds and personnel. This MOU shall not be used to obligate or commit funds.

#### **H. Effective date and signature**

The terms of this MOU are agreed to and are effective from the date of the last signature below. This MOU may be terminated at any time by any Party for any reason by written notice to the non-terminating Parties. By:

##### **For and on behalf of NEFMC:**



C.M. "Rip" Cunningham, Jr., Chairman

June 19, 2013

##### **For and on behalf of MAFMC:**



Richard B. Robins, Jr., Chairman

June 13, 2013

##### **For and on behalf of SAFMC:**



David Cupka, Chairman

July 15, 2013