



New England Fishery Management Council

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MEETING SUMMARY

Habitat Plan Development Team and Advisory Panel

SMAST-East, New Bedford, MA

December 20, 2017

The Habitat Plan Development Team and Advisory Panel met to discuss and updated broad zone alternative for the Deep-Sea Coral Amendment, receive an update on the clam dredge framework, discuss strategies for engagement in offshore wind energy development, and discuss fishing effort data for the updated fishing effects model. This was a joint meeting of the Habitat PDT and AP, chaired by Michelle Bachman and Chris McGuire. Only AP members made or voted on motions.

Habitat Plan Development Team: Michelle Bachman (chair), Rachel Feeney, Travis Ford, Marianne Ferguson, Geret DePiper, Jessica Coakley, Kathryn Ford, Doug Potts

Habitat Advisory Panel: Chris McGuire (chair), Gib Brogan, Beth Casoni, Meghan Lapp, Jeff Kaelin, Ben Martens, Ron Smolowitz, Dave Wallace, John Williamson, Ben Haskell, Drew Minkiewicz

Members of the public: Katharine Deuel, Peter Hughes, Morgan Callahan, Dan Farnham, David Borden, Allison Lorenc, Eric Reid, Eric Heupel, Jeff Pike, Katie Almeida, Tom Alspach, Grant Moore, Louis Lagace, Allen Rencurrel

AGENDA ITEM #1: DEEP-SEA CORAL AMENDMENT

PDT chair Michelle Bachman explained the work that the PDT did to revise Option 7, including a summary of how vessel monitoring system data were mapped and how the proximity of fishing relative to the zone boundary was assessed. The revised option encompasses slightly less fishing and coral habitat as compared to the original version. The revised Option 7 scores well for coral protection relative to Option 6.

Advisor Ron Smolowitz asked what is limiting the depth of squid fishing? Jeff Kaelin responded lobster gear. Advisor Meghan Lapp noted that the VMS model identified squid trips as those where landings were > 74% squid, but that ‘bottom trawl’ trips would have catch of squid as well, since many trips have mixed species catches. Many factors including water temperature influence the distribution of squid fishing.

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Advisor Jeff Kaelin commented that fishing effort takes place right to the edge of the slope, but there is little effort where the hard coral is expected to be. Would like more information about the data used to impute coral areas.

Michelle Bachman noted that the high slope areas are a very solid indicator of coral habitat, and that coral occurrence at high slope locations (30°-36° and >36°) was groundtruthed extensively during camera surveys. The suitability model-based habitat footprint is less certain, as the spatial resolution is relatively coarse. However, the modeling work does suggest that the canyons are blanketed with suitable habitat.

Jeff Kaelin noted that there are a lot of rocks left by glaciers in the heads of the canyons, which makes it hard to fish.

Habitat Committee member David Borden asked if the PDT has VMS data for the scallop and surfclam fleet. How does it compare? Ms. Bachman responded that yes, the PDT has these data, but hasn't mapped them, although it would be good to see how the data are distributed. Our general sense is that industry isn't working in these areas.

Ron Smolowitz asked if maps were available for lobster trap vessels. Ms. Bachman noted that there are data, and she developed the maps, but they are confidential, since there are only 8-10 vessels fishing along the shelf/slope break that submit VMS data.

Ron Smolowitz asked how the other broad zones were developed – based on depth? Ms. Bachman confirmed that they were closely based on depth contours, and PDT member Travis Ford noted that the boundaries are straight line approximations of the depth contours. Each vertex has a specific set of coordinates (latitude/longitude). Mr. Smolowitz asked if freezing the footprint is the stated goal of the action. What about trap gear?

AP chair Chris McGuire read the problem statement for the action, as specified by the Council, and made the argument that there is an implication that the intent is to freeze the footprint, but it's not explicit in the statement.

Habitat Committee member Eric Reid asked about the time series for the model-based VMS maps (answer, 2005-2012). The speed-filtered data go through 2016. Mr. Reid commented that prior to 2013, there would be very limited evidence for butterfish fishing, and in years after 2013, the data would be confidential. Since a trip could be 6 days, a single point on the VTR could be misleading as a representation of effort.

Megan Lapp agreed there is uncertainty in the model-based distribution of coral habitat. She disagreed with drawing too many parallels to the Mid-Atlantic amendment. In New England, the tide is running north and south into and out of the canyons, so there is a ton of fishing around the heads of the canyon, because there is upwelling. Strategies that worked in the Mid-Atlantic may not work here.

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Advisor Gib Brogan asked if the PDT could speak to the groundtruthing of the predictive model. Ms. Bachman confirmed that corals have been confirmed in many areas suggested to be suitable habitat.

PDT member Dr. DePiper summarized the effort data used to evaluate coral zone options.

Eric Reid asked how you could say that there is less revenue further from the reported vessel trip report (VTR) point location. Dr. DePiper responded that it's not that there is less revenue necessarily, but less activity is predicted distant to the VTR point. (Based on a comparison between VTR points and haul locations in at-sea observer data, for trips covered by both datasets). Audience member Dan Farnham commented that his captains are sometimes terrible with paperwork (i.e. they may not be reporting an accurate and unique central fishing location for each trip).

Dr. DePiper noted that regardless of how the VTRs are actually being filled out, they are supposed to represent where the majority of fishing occurs, not the first point where you start. Further, he responded that the analysis is incorporating the spatial uncertainty in the VTR data to the extent possible. The number of days out is explaining a lot of the differences between VTR and VMS. Travis Ford reminded the group that VTR is just one of the datasets used here, and that vessel locations from VMS were used to evaluate the Option 7 boundary line.

Eric Reid followed up on an earlier comment, noting that there is lots of potential for expansion in the butterfly fishery.

Ron Smolowitz confirmed that changes in boundaries would be frameworkable, and Ms. Bachman noted that yes, they would be; this decision had been made in June.

Audience member Morgan Callahan (Pew Charitable Trusts) noted that NOAA is planning another series of dives in New England in the coming years aboard the *Okeanos Explorer*.

Ron Smolowitz expressed concerns about the coral habitat model. For example, in Veatch Canyon, there are very strong currents, and in the 1970s, there was nothing there; the area was scoured by currents.

Dan Farnham commented that the historical (i.e. deepwater) monkfish fishery is not reflected in the available fishing effort data. He was adamant about the need for a 600 meter boundary (i.e. Option 6). He argued that you can't fish right up to the zone, because vessel drift with the currents might cause the vessel in violation. Ms. Bachman responded that monkfish vessels would submit both VMS and VTR data. Mr. Farnham agreed, but noted that because of the rebuilding trip limits, effort dropped off. However, they still have access to the area, and would fish it more if the trip limits were relaxed. Ms. Bachman noted that she wasn't disputing the information that there was once a deeper water fishery for monkfish in the area, just acknowledging that the fishery is not captured in any of our spatial data.

Jeff Kaelin commented that there was very robust *Illex* squid fishery this summer (2017) that is not reflected in the data. He was certain that there were *Illex* caught all throughout there this past year. Probably not more than three vessels.

Motion 1: Lapp/Wallace

That the AP recommend to the committee Option 6 as a preferred alternative (600 m minimum), as a closure to all bottom tending gears, with an exemption for red crab.

The motion carried on a show of hands, 6/1/2.

Rationale of those in favor:

- Looking at the PDT's VMS charts, there is effort (VMS polls) up to and sometimes over the line – there are problem areas in terms of close proximity to fishing along the edge of the shelf.
- There have not been observed interactions (NEFOP bycatch data) between soft or stony corals and fishing gear along the shelf break.
- Council should select an option that is practicable – don't create a problem where there is not a problem.
- New England region is different from Mid-Atlantic. Tide is harder to the east especially, and vessels drift during haulback and could end up over the boundary line with gear still in the water.
- Want to avoid interactions with enforcement if vessels are within the zone, to the extent possible.
- Offshore lobster fishery and emerging Jonah crab fishery are very important in New England, and mobile gears need to maneuver around these gear types.
- 600 m does more than freeze the footprint, based on historical effort.
- Do not want to put current fishing areas off-limits.
- Trawl gear fished in these areas is light on the bottom.

Rationale of those opposed:

- Alternative 6 is not based on the best scientific information available. Alternative 7 better reflects coral data.
- Alternative 7 is simpler in that it has a smaller number of vertices.
- There is a small economic difference between the areas, notwithstanding the smaller number of vessels that might be more highly affected.
- Alternative 7 is more consistent with NOAA guidance on management strategies to protect deep-sea corals.

While there is not a written protocol on enforcing the Mid-Atlantic coral zone, there are some lessons that can be taken from the past year of experience with that regulation.

- Fishing vessels drift with the current during haulback and may drift over the line.

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- There is enforcement of the MAMFC coral zone in that vessels are contacted when they go over the line.
- Gear on the seafloor is distant from the vessel and the vessel could be in the coral zone while the gear is outside of it. The way the regulations are written, vessels can transit the coral zones if their gear is onboard, but it is hard to tell remotely (i.e. using VMS) if a vessel is transiting or fishing.
- As presently drawn, Option 6 has more vertices/segments than Option 7 (~400 vs. ~200). However, because it is deeper, expect fewer VMS polls inside Option 6 vs. Option 7, despite the fact that Option 6 is a more complex boundary.
- In order to bring a violation, the MAFMC zone boundary, and these ones, will require a burden of proof unlikely to be met.

Advisor Ben Martens asked if it would be possible to create small buffers around areas where corals have been observed directly. How can the Council respond when such areas are identified outside the management zone? Ms. Bachman pointed out a few areas where corals have been observed outside or near the edge of the 600 m (Option 6) zone.

Advisors and audience members noted that existing management areas (Tilefish Gear Restricted Areas, Northeast Canyons and Seamounts Marine National Monument) provide protection for coral habitats.

AGENDA ITEM #2: CLAM FRAMEWORK

The purpose of the clam framework is to consider exemptions for clam dredges in specific habitat management areas developed in OHA2. Michelle Bachman summarized the timeline. Once the coral amendment is completed next month, PDT will focus on clams. At this time, we don't know if the habitat areas have been approved (there was a decision after this meeting, on January 3, and the Georges Shoal HMA was not approved, but the Great South Channel HMA was). Assuming April-May implementation of OHA2, the Council should finish the clam framework at the September meeting, and staff should plan to submit the action shortly thereafter.

A member of the public noted that if the PDT wants additional data on the clam resource or impacts, it will be difficult to accumulate it before next summer. Ms. Bachman noted that the major data gap, i.e. relative abundance of clams in the heavily fished portions of Nantucket Shoals, was filled by the SCMFIS survey conducted last August.

David Borden asked if the clam framework could consider changes to the underlying mobile bottom tending gear closure. Ms. Bachman responded that while OHA2 allows for changes to habitat management areas via a framework action, that modifying the underlying HMA boundaries is outside the scope identified for this action, so the Council would need to adjust the problem statement/goals.

Ron Smolowitz asked about the rationale for the closures. Jeff Kaelin suggested that while there may be cobbles and boulders in the HMA, very few have epifaunal cover. He asked if those data had been analyzed yet. Ms. Bachman noted that the analysis of where epifauna vs.

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cobbles/boulders without epifauna occurred was ongoing. Dr. DePiper added that he needed to process fishing effort data for 2016.

Michelle Bachman asked if there were observer data worth considering in this framework, since until recently her understanding was that most of the trips were in the mid-Atlantic. An AP member commented that there are few trips because fish bycatch was not an issue of concern.

David Borden suggested that it would be helpful to have guidance on how small an area could be closed to fishing. What is the minimum size?

PDT member Kathryn Ford asked if we have any data suggesting changes in depth over time, i.e. tracking how do sand waves move? The implication is that if we create an access area this year, will it still be fishable next year?

There was some additional discussion about whether the goal was to close small areas for habitat protection, or open small areas for clam dredging.

Advisor David Wallace said that the Council shouldn't close the whole area and allow the clam area access to only small exemption areas. The area should not have been closed in the first place - the original idea was to close the Great South Channel (i.e. further east and deeper). The clam industry is easiest to pick on, and the situation is extremely unfair.

He expressed confusion as to how the Council ended up with a one year timeframe with which to consider exemption areas, from an original timeline of three years from OHA2 implementation. He said that the industry has raised ideas with no real reaction from the Committee/Council.

In response to a suggestion by Ms. Bachman, Jeff Kaelin agreed that summarizing the data by overlaying grid on the management areas would be a good approach.

Motion 2: Wallace/Kaelin

If the Committee wants to think about how to manage Nantucket or Georges Shoals, that they think about having the entire area open, with areas of highly complex habitats and low populations of clams to be closed. Areas should be enforceable.

Note: This motion assumes the Great South Channel and Georges Shoal Habitat Management Areas are designated via the Habitat Amendment and closed to hydraulic dredges.

The motion was voted, and four AP members were in favor and two abstained. Upon reflection that there was no longer a quorum present, the record was changed to note that the motion was supported by majority of members present.

AGENDA ITEM #3: OFFSHORE WIND

Michelle Bachman and Chris McGuire noted recent meetings on monitoring and research in wind energy areas, specifically a National Academies of Science meeting in November and a wind industry-hosted meeting on data collected at the Block Island Wind Farm in December. Mr.

McGuire commented further that the Bureau of Ocean Energy Management (BOEM) is responsible for developing a monitoring plan, so they asked the National Academies for guidance. Specifically, what should we monitor for and what should we do with the information. A major takeaway of his from the NAS meeting is that there's a difference between an effect and an impact.

Advisor Drew Minkiewicz acknowledged that this is getting to be an issue of major impact on fisheries. With offshore oil and gas, there is a 5-year siting issue. The siting has to be done correctly. The Council knows the fishery and what's happening in federal waters. There should be a PDT-like body to inform these discussions. What good is the Northeast Ocean Plan, anyone could propose a wind energy area anywhere? There is a major need to look at the overall cumulative impacts.

Meghan Lapp agreed and commented that the unsolicited bid process has to go. The Council should make a request that there be no more unsolicited bids. We have to look at cumulative impacts. These will be closures for mobile fishermen. It's a land-grab.

Mr. Minkiewicz added that BOEM is so fragmented with their environmental review (NEPA) process. In court, they are making claims that they don't need analysis [of long term impacts] when areas are only being leased.

Mr. McGuire suggested that it would be useful for the AP to help the Committee make suggestions to the Council about its role in this process.

Ron Smolowitz commented that issues around impact of non-fishing activities on fish habitats are decades old. Fishery managers developed the EFH concept because NMFS was being asked for input. This is the same scenario. Our only input is going through BOEM. Now that we have EFH defined, the Council needs to be actively involved. Can't just comment to BOEM. Perhaps propose areas?

Advisor John Williamson commented that the Mid-Atlantic Council developed policies expressing their concerns about a range of non-fishing activities.

David Borden recommended that the Councils work together. He agreed it would be helpful to have a PDT to give technical advice, and ideally a more holistic look across the ecosystem. Eric Reid agreed that the Council should not delay on a joint effort. He also noted concerns that insurance companies might prohibit vessels from transiting through wind farms.

Meghan Lapp suggested that the Councils and Commission should write a letter to NOAA. We need the Dept. of Commerce involved at a high level.

By consensus, the AP recommends that the two Atlantic-coast Councils and the Atlantic States Marine Fisheries Commission convene a committee to review fisheries stakeholder concerns related offshore wind. Tasks for this committee could include:

- Asking the Secretary of Commerce with the Secretary of Interior to facilitate the engagement of fishery managers in the BOEM process,
- Participating in cumulative effects analysis (technical or advisory role or both), and
- Assembling a dedicated technical team to evaluate impacts and develop advice.

Also, the AP recommends continued Habitat AP, Habitat PDT, and Habitat Committee engagement on these topics. It would be productive to have meetings focused solely on this topic.

John Williamson recused himself as he is a fishery liaison officer for Bay State Wind.

AGENDA ITEM #4: FISHING EFFECTS MODEL

Ms. Bachman asked for feedback on the area swept/gear tables being developed for the Fishing Effects Model, which is an update to the Swept Area Seabed Impact Model. The idea is to develop a more refined list of fleets to model individually, so that regional and species-specific differences in fishing gears and therefore swept area can be better captured.

Meghan Lapp commented that the Atlantic will be more complicated than in the Pacific. There's a lot more variation. Staying high level with the data would be better. Ron Smolowitz wondered if the update was a waste of time – we don't have enough data and have not verified the model approach. We have a long way to go. He acknowledged that a lot of people have a lot invested in the model.

Drew Minkiewicz commented that there's a danger with going too far with what you have. Too fine of a picture could lead to unwanted results. There needs to be more focus on getting level 4 data (i.e. production rates by habitat). We have new habitat areas, and we aren't even allowed in there to monitor. There's an assumption that good habitat promotes productivity. That's still not answered for our region.

Eric Reid commented that door spread data might be helpful. Very complicated for the trawl fishery.

Ron Smolowitz suggested that we should have a discussion about what are the next research steps. I don't think the path is the model path. Many needs, but we don't have a path forward.

The meeting adjourned at approximately 4 p.m.