



## New England Fishery Management Council

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### MEMORANDUM

**TO:** Habitat/MPA/Ecosystems Committee  
**FROM:** Leslie-Ann McGee, PDT Chair  
**DATE:** June 4, 2007  
**RE:** Omnibus Amendment #2: Phase 1 Final Decisions

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The Habitat PDT met on May 31, 2007 in Woods Hole, MA to review the public comment received on Phase 1 of the EFH Omnibus Amendment including EFH designations, consideration of habitat areas of particular concern (HAPC), prey species evaluation, evaluation of the potential effects of non-fishing activities on EFH and recommendations to conserve and enhance EFH. The PDT offers the following advice:

#### **EFH Designations**

##### *Technical Corrections:*

The PDT noted that upon detailed review of the DSEIS, there are several technical corrections that need to be made including:

1. Atlantic halibut: The captions for the alternative 3 maps need to be changed to reflect that the map applies to all four life stages. Additionally, text descriptions for eggs and larvae need to be included in the document and have already been written by the PDT.
2. Atlantic sea scallop: The titles and the captions for the alternative 5 map need to be changed to reflect that the map applies to all four life stages. Additionally, text descriptions for eggs and larvae need to be included in the document and have already been written by the PDT.
3. Clearnose skate, winter skate, and windowpane flounder maps: the ELMR designation for the mainstem of Chesapeake Bay is incorrectly mapped. Consistent with the data and analysis, areas will either be filled in or removed, as necessary.

4. Little skate; With respect to juveniles and adults, the Committee's intent was to include un-surveyed coastal areas of southern New England based on the 3C maps for each life stage, respectively. The DSEIS inadvertently includes two identical 3E maps for juveniles and adults, both based on survey data and habitat features for juveniles. Map 3E for adults should be based on the 3C adult map, with the same areas filled in as on the 3E juvenile map.
5. Offshore hake: The captions for the juvenile maps in alternative 3 are wrong and refer to the next higher cumulative catch level inadvertently (e.g. 3B refers to 75% when it should be referring to 50%). And, the document only includes one Alternative 3 map for adults when it should include 4 (3A-3D).
6. Red hake: The text descriptions for eggs and larvae need to be changed to correctly reflect the depth range for juveniles shown on map 3C.
7. Winter flounder: In order to best use the designations in EFH consultations, NERO has requested a clarification in the text descriptions for the units of meters on the shallow side of the depth parameter where an inter-tidal zone is included. In the case of winter flounder, the minimum depth is 0.5 meters and the technical correction would read: "0.5 meters below mean high water". There are other cases in which this technical correction needs to be made including juvenile cod, clearnose skate, ocean pout, pollock, red hake, and adult and juvenile windowpane.
8. US/CA Border: The EEZ mask at the Hague line needs to be improved to eliminate from the map those portions of TMS that extend into Canadian waters.
9. Bathymetry: Maps for some species aren't displayed with the most up to date bathymetry coverage that was used in the analysis. These will be corrected.

*PDT Issues:*

1. Atlantic salmon: Based on public input and the science on which the alternatives were based, in addition to the life history of the species, the PDT recommends that the Committee choose Alternative 2A, Option 2 with the addition of TMS filled in at the mouth of the Connecticut and Pawcatuck Rivers out to 3 miles. This is a modification of the current alternative in the document but is within the range of what was analyzed.
2. Deep sea red crab: The PDT encourages the Committee to retain the depth-defined description on the seamounts even though it does not match the seamount HAPC squares that are feature-defined. The PDT believes that the depth-defined designation that includes the three seamounts (Bear, Retriever and Physalia) is scientifically defensible. The PDT also notes that the Council can implement Phase 2 protective measures with a more general block description based on the new Magnuson Act provisions and taking into account enforcement issues.
3. Witch flounder: The PDT believes that the Committee should not be using juveniles as a proxy for adults as there is plenty of data for adults. NERO has informed the Council via their comment letter that if the Committee/Council decides to continue this decision, then clear justification needs to be provided in the document. The PDT recommends that Alternative 3C (75%) be chosen as the preferred alternative for adults.
4. Winter flounder eggs: Based on observations reported in the EFH Source Document, the PDT believes that the maximum depth in alternatives 3 and 5 (text and maps) needs to be changed from 20 meters to 8 meters. The PDT considers that there is not sufficient scientific evidence to support an extension of the maximum depth for winter flounder eggs from 5 meters (the existing maximum depth) to 20 meters.
5. Winter flounder adults: The PDT recommends that the minimum depth for winter flounder adults in alternatives 2, 3, and 4 be changed a minimum depth range of 0.3 meters to be consistent with the minimum depth for eggs. This will not require a map change as the maps extend to the coastline.
6. The PDT has noticed that in many cases the Committee did not fill in squares consistently across all applicable species and life stages. Upon further analysis, the PDT has uncovered several TMS where no survey data exist and the square has not been included in the designation alternatives for a number of species and life stages (see the map below). In many cases, the squares surrounding these un-surveyed squares are all included in the designation. As has been the policy

during this process, the PDT is not recommending that these areas be filled in, but rather, that the Committee has used their discretion to fill in areas based on their collective knowledge and the PDT would like the Committee to consider the following specific cases:

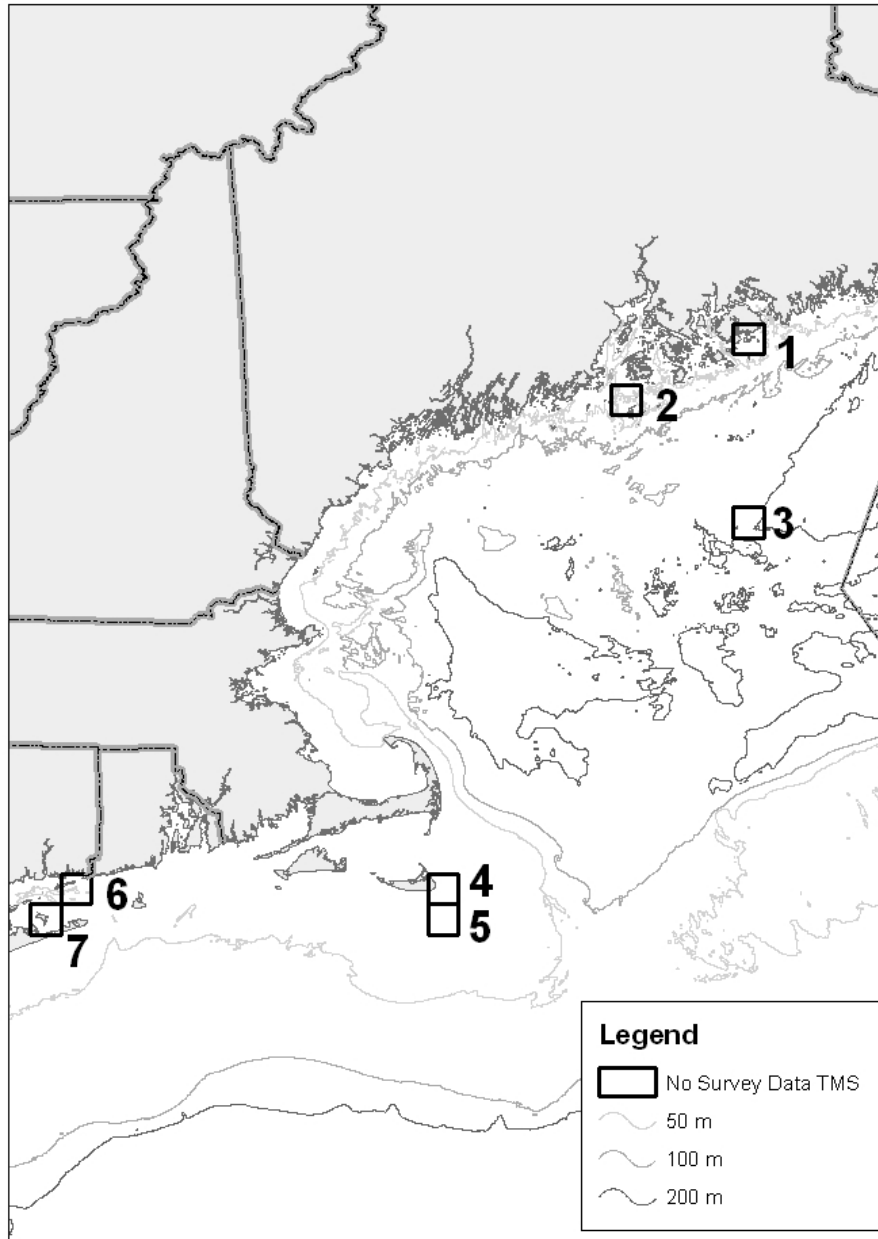
Species	Life Stage	Map Number(s)	Blank ten min squares
American plaice	Juvs/Adults	295/299	1,2
Haddock	Juvs/Adults	333/338	1,3
Little skate	Juvs/Adults	343/346*	1,2,4-7 **
Monkfish	Juvs	351	1,3
Pollock	Juvs	374	1,2
Red hake	Juvs/Adults	381/386	1,2, 4-7
Silver hake	Juvs/Adults	401/405	1-3
Silver hake	Eggs/Larvae	224	1-3
Smooth skate	Juvs	410	3
Thorny skate	Juvs/Adults	417/422	3
White hake	Juvs/Adults	426/430	1-3
Witch flounder	Juvs	465	1-3
Witch flounder	Adults	469	3***

\* A modified Map 346 would replace Map 348

\*\* Two more TMS in eastern LIS (outside ELMR area) are blank where skates caught in RI and CT trawl surveys are not identified by species: these two TMS were filled in for winter skate

\*\*\*A modified Map 469 would replace Map 470

Areas that have not been surveyed.



## Habitat Areas of Particular Concern (HAPC)

1. The PDT recommends that the Committee retain the Atlantic salmon HAPC described in Alternative 1B (No Action).
2. The PDT recommends that the Committee not select HAPC Alternative 8 (Great South Channel) as the area is very large for the stated purpose of including juvenile cod EFH. The PDT believes that this HAPC is too large and not well thought out. At this time, the PDT has no information with which to refine this HAPC and no site specific information on juvenile cod to support this designation.
3. With respect to the other HAPC alternatives, the PDT does not offer any specific action-oriented recommendations but instead provides issues for the Committee to consider:
  1. Alternative 2 (Seamounts): Any HAPC designation in this area needs to be kept within the scope of the EFH designations that would apply here. Specifically, if the feature defined EFH alternative is chosen for deep-sea red crab then the HAPC designation should be modified to conform. Contrary to the interpretation provided in some of the public comments, while the new Magnuson Act does allow for protection of a larger area with management measures, it does not allow for the formal designation of an area as HAPC unless it is designated as EFH.
  2. Alternative 3 (Deep-sea canyons): The PDT believes that if the science supports the canyon occurrences of structure-forming organisms, then the Committee should seriously consider these areas as HAPC. White hake EFH extends to 2,250 meters which defines the deepest extent of many of the canyons with others being shallower based on their morphology. As illustrated in the DSEIS analysis, each canyon alternative is EFH for multiple species based on the status quo EFH and the preferred alternative EFH. Ones that have been the least explored may have less data on which to base the HAPC such as Hydrographer, Veatch, Hudson and Washington canyons. However, the PDT submits to the Committee that they should consider the precautionary approach in light of the fact that the data are presence data and not presence/absence data. A more inclusive approach could base the HAPC designations on the type, shape and size of canyons. Poorly-explored canyons that are morphologically similar to canyons with structure-forming organisms could be included in the HAPC by analogy.

3. Alternative 4 (Cashes Ledge): This alternative includes an area with a wide variety of features and habitat types and attempts to describe a micro-ecosystem that meets all of the EFH criteria. For this reason, the Committee should seriously consider its implementation.
4. Alternative 5 (George's Bank/Northern Edge): The gravel and three-dimensional habitat is favorable to juvenile cod for survival and is clearly document in the literature. The PDT believes the extension of the current HAPC to the west as described in this alternative will include mostly sandy gravel as a result of the heavy disturbance by fishing gear. This should not deter the Committee from providing the alternative with full consideration based on the science that supports it. Additionally, even if scalloping can co-exist with this habitat, the area should be given full consideration as an HAPC. The gravel that occurs between the large sand ridges does constitute rare habitat relative to the rest of the region. Additionally, the SMAST study with all its merits cannot be compared to the other long-term studies that don't rely on a small subset of access program days-at-sea. Additionally, the PDT noted that there is a threat by the invasive colonial tunicate that exists within these boundaries especially considering can spread through disturbance.
5. Alternative 6 (Jeffreys Ledge/Stellwagen Bank): In hindsight, the PDT would like to see an alternative for public comment that included only the SBNMS boundaries. The PDT believes that it is within the range of analyzed alternatives as a stand-alone alternative for consideration. With that said, additional information has been provided by SBNMS that clearly assists with the designation of this area as HAPC. SBNMS is a complex of habitat types not based on a feature as are other HAPC alternatives.
6. Alternative 7 (Inshore juvenile cod): For young-of-the-year cod and larger juveniles, Alternative 7B which includes a designation of 0-20meters would greatly assist in EFH consultations with non-fishing projects that may adversely affect EFH. The 0-20m option is a way of capturing the habitats without drawing straight lines. It includes more area that is used by young of the year cod as they move further offshore.