

GROUND FISH MANAGEMENT TEAM REPORT ON GROUND FISH ESSENTIAL FISH HABITAT AMENDMENT SCOPING, INCLUDING ROCK FISH CONSERVATION AREA (RCA) AND AREA ADJUSTMENTS

The Groundfish Management Team (GMT) received an overview of this agenda item from Council staff and discussed the materials provided under this agenda item, as well as previous GMT statements on this subject, and offers the following thoughts.

Introduction

While there is an impressive amount of data on the Consolidated Geographic Information Data Catalog and Online Registry (<http://efh-catalog.coas.oregonstate.edu/overview/>), the GMT notes that there appears to be very little new information about groundfish habitat needs. Most of the data listed is new mapping that describes what the seafloor looks like. There is also some modeling work to predict presence/absence of a few representative Fishery Management Plan (FMP) species and some new prey data for groundfish; however, there is little to no information on how groundfish use particular seafloor, biogenic, or oceanographic features. In short, there is virtually no information that elevates our understanding under the habitat analysis framework described in essential fish habitat (EFH) regulations (50 CFR 600.815). **This paucity of new information on habitat associations, use, or fisheries production might narrow the scope of action that the Council wishes to consider.**

The EFH Review Committee (EFHRC) Phase 2 Report points out the limitations of both the Phase 1¹ and Phase 2² Reports, given that there is no scientifically guided problem statement. Just as it is difficult to measure the need for action, and thus the scope of reasonable alternatives to analyze, without a scientific assessment of new information in light of existing protections, it is nearly impossible to assess the need for action without understanding the policy goals. We raised this issue in detail in November 2013 ([Agenda Item H.7.c, Supplemental GMT Report](#)) as well as March 2014 ([Agenda Item D.2.c, Supplemental GMT Report](#)). **The GMT continues to recommend that the Council articulate goals with regard to EFH, particularly for habitat protections and minimizing the adverse effects of fishing. Further, the GMT is recommending that the Council initiate a dedicated scientific review process to look at available new information, develop a problem statement, and examine the existing proposals.** We provide more detail on this recommendation under Item 3 (adverse impacts of fishing and minimization measures) later in this report.

One of the most pragmatic considerations for the Council in determining the scope of action, and subsequent process of alternative development, is the cost (both the staff time for analysis and complexity of implementing subsequent regulations) compared to the benefit (i.e., whether measured by habitat protections or benefits to the fishery or ease of management) expected from the suite of EFH and related measures considered. For example, the National Marine Fisheries Service (NMFS) has recommended, and the Council agreed, that combining the rockfish conservation area (RCA) changes with changes to EFH closures might provide a more

¹ http://www.pcouncil.org/wp-content/uploads/H6b_EFHRC_RPT_1_SEP2012BB.pdf

² http://www.pcouncil.org/wp-content/uploads/D2b_EFHRC_RPT_PHASE2_MAR2014BB.pdf

comprehensive review of potential impacts to habitats and cumulative effects. The September 2014 Supplemental Joint Council/NMFS Staff Report ([Agenda Item I.6.a](#)) also provides a good graphic representation of other competing priorities and the associated staff time that the Council should take into consideration when debating the breadth of action necessary under Phase 3.

EFH Measures and Area Modifications

The GMT reviewed and discussed Table 4 ([Agenda E.5, Attachment 1, April 2015](#)) and provides the following comments to help the Council consider the scope of action to move forward. We've grouped items from Table 4 according to revisions that don't need an FMP amendment, those that require an FMP amendment, and those that might be better considered in a different rulemaking package.

Relatively simple updates that don't require an FMP Amendment

The GMT notes that the new information compiled in the Phase 1 and Phase 2 Reports warrants updates to Appendices in the Groundfish FMP and that these updates could be made without an FMP amendment. We view these updates as relatively simple steps forward in the completion of Phase 3, and recommend that the updates begin being drafted now to free up time once the more complicated process of analyzing the alternatives gets underway. We understand that in some cases these updates are already underway and that adoption of these revised appendices could be done as Council floor time is available or at the same time as final action on the package.

As such, the GMT recommends the Project Team review the recommendations in the Phase 1 and Phase 2 reports, and other relevant information from the EFH review, and begins drafting updates to the following items from Table 4 ([Agenda Item E.5, Attachment 1](#)):

Item 1: Description and Identification: Habitat Components

The EFH Review compiled enough new information to warrant an update of habitat descriptions and life stages summaries (Appendix B).

Item 4: Non-fishing effects and conservation measures

The GMT understands that updates to Appendix D are being drafted by NMFS and should be available for review by the end of 2015. If additional conservation measures are needed for activities from non-fishing effects, the GMT could recommend that the Council write a letter to the "action" agency noting any recommendations for new conservation measures.

Item 6: Conservation and Enhancement

Similar to Item # 4, the GMT understands that Appendix D is in the process of being updated and that the Council, Advisory Bodies, and the public will have the opportunity to review the revised document at a later date. If concerns are noted, the GMT could recommend the Council write a letter to the "action" agency noting any additional recommendations for conservation and enhancement necessary to address adverse effects from non-Magnuson-Stevens Act (MSA) fishing and non-fishing activities, and cumulative impacts.

Item 7: Prey species

The Phase 1 Report includes enough new information to update the prey items descriptions of managed groundfish species in Appendix B3.

EFH Measures and Area Modifications that require an FMP Amendment

The GMT recommends the following items from Table 4 ([Agenda Item E.5, Attachment 1](#)) move forward for scoping, and provides considerations if they move forward.

Item 2: Pacific Coast Groundfish EFH Description and Identification: Spatial extent

The Phase 1 report has enough new descriptive information on seafloor attributes to warrant updating the spatial description of EFH designations. One of the proposals suggests that abyssal grenadier should be added to the FMP as an ecosystem component (EC) species; however, the GMT notes abyssal grenadier is already an EC species.

EFH regulations at 50 CFR 600.805(b) require that (1) EFH be described for all species that are in the fishery management unit (FMU), and (2) FMPs identify the specific geographic location or extent of habitats described as EFH, and include maps or boundaries of EFH. The GMT understands the rule to require EFH for FMU species, but not for all EC (i.e. unmanaged) species included within the FMP. Given our understanding of the regulation, we don't think the spatial extent of the EFH area should extend beyond 3,500 m because none of the current FMU species occur beyond that depth. However, if the Council wants to recommend to NMFS implementation of a closed area beyond 3,500 m, they could use their discretionary authority under the MSA (Section 303 (2) (A)) as an alternative pathway (i.e. not related to EFH) to include such a closure in the FMP.

Item 3: Adverse effects of fishing (MSA and non MSA) and minimization measures

The Phase 2 report recommends applying conservation measures to MSA fishing activities, and recommending conservation measures for non-MSA fishing activities. The GMT has not delved into any detailed discussion on the proposals. However, we note here as we have in the past, and as the Phase 2 Report points out, that there has never been any scientific review of the proposals. The Phase 2 report further points out that there is insufficient information to measure the effectiveness of Amendment 19 of the FMP without a habitat assessment.³ That report similarly stated that having a scientific assessment and review process analogous to the stock assessment and harvest specifications process would provide a more robust and defensible look at how the EFH designations and management measures are working. The GMT notes that the Endangered Species Act (ESA) Recovery Plan process includes a similar review of data and structuring of metrics to measure progress.

The GMT is concerned that the existing scoping, alternative development, and review process envisioned at this time has insufficient scientific review. Specifically, we are concerned that while the Scientific and Statistical Committee (SSC) normally reviews the range of alternatives developed for some actions, such SSC review of alternatives developed by the Project Team (i.e., to address the purpose and need scheduled for adoption in September) will not be a thorough or rigorous scientific review. Typically, SSC reviews at Council meetings are fairly brief and just one of many agenda items they need to address over a few days. This focus on comparison of Alternatives to the purpose and need statement which would not constitute the level of scientific

³ NMFS. 2010. Marine fisheries habitat assessment improvement plan. Report of the National Marine Fisheries Service Habitat Assessment Improvement Plan Team. U.S. Dep. Commer., NOAA Tech. Memo. NMFS-F/SPO-108, 115 p. https://www.st.nmfs.noaa.gov/st4/documents/habitatAssesmentImprovementPlan_052110.PDF

review of available habitat information called for in the Phase 2 Report or suggested by the GMT here and in past reports.

In sum, we recommend that a scientific review process analogous to stock assessment reviews or ESA Recovery Plan development take place for EFH. This could be accomplished with a dedicated scientific review panel that would develop a scientifically-guided problem statement (as recommended in the Phase 2 report) and then explore the relative merits of different proposals against that. Such a review could occur over the summer to inform the draft purpose and need statement as well as the alternatives brought forward in September. As we mentioned in the introduction, it would be good for the Council to articulate its policy goals of the EFH program enacted under Amendment 19 as well to guide such a process.

This process could be split out and developed on a separate timeline from the updates to the description of fishing activities (described further below under Item 9) and other more easily accomplished tasks (e.g. updating Appendices) discussed above. The Council could consider whether to initiate this as an additional phase (i.e. Phase 4) of the EFH Review process, or whether to simply convene an independent, dedicated scientific review panel to report to the Council.

Item 11: Comprehensive Trawl Rockfish Conservation Area (RCA) Adjustments (Omnibus #47)

The original intent of RCAs was to protect overfished species, but it has evolved to include consideration to be used as a conservation measure for other species (e.g., spiny dogfish and longnose skate in 2013-2014). Groundfish management has also evolved with the implementation of the shorebased individual fishing quota (IFQ) program which relies on individual accountability to minimize impacts to overfished species and keep catch of target species within applicable limits. RCAs can also be effective at minimizing encounters with species that are not managed with IFQ (i.e., non-IFQ species). The EFH scoping process will consider EFH area closures intended to protect habitat, and these areas may overlap with RCAs or other Groundfish Closure Areas (GCAs). The analysis of EFH and RCA adjustments can be confused if done together, but we recognize that the merged process may provide some efficiencies since both have effects on habitat. Identification of areas that warrant habitat protection could overlap with areas of high bycatch. **Should the analysis consider these two types of area closures at the same time for efficiency, the GMT strongly recommends that the distinct differences of the purpose and need for EFH (habitat conservation) and RCAs or GCAs (species conservation) be explicitly described.**

Relative to alternatives, the GMT recommends keeping the scope broad for now. If this issue moves forward, the GMT requests that (1) the Non-Government Organizations and Industry alternatives be brought forward as soon as possible, and (2) the Project Team should bring forward alternatives that include proposals to implement EFH closures within the current RCAs. If this process was designed to consider EFH and RCA changes together to increase efficiencies in the analysis, it will be important to have the full range of potential alternatives on the table to inform the analysis.

Item 8: Habitat Areas of Particular Concern

The GMT understands that NMFS has completed most of the work to update Habitat Areas of Particular Concern (HAPCs) based on new information compiled in the Phase 1 and Phase 2 Reports and that the Council, Advisory Bodies, and the public will have the opportunity to provide comments on the updates and make recommendations regarding new HAPCs, if necessary, at a later date.

Item 9: Research and Information Needs

In September of last year, NMFS responded to Council member questions on the effectiveness, accuracy, and completeness of EFH ([Supplemental Information Report 7](#)). That report anticipates receiving an ESA Biological Opinion in 2015 that would describe how Amendment 20 (trawl rationalization) to the groundfish FMP affected fishing patterns (e.g. areas and intensity of trawl effort, increases in fixed gear effort from gear switching, etc). However, there is currently no information available on those fishing patterns. Therefore, there has been no analysis of potential benefits or potential threats to habitats from this major restructuring of the fishery. Additionally, the fishing intensity graphs currently include information from 2002 to 2006 (before the implementation of Amendment 19) and 2006 to 2010 (after the implementation of Amendment 19) but do not include the period from 2011 to 2014, which would allow for the analysis of RCA considerations for the shorebased IFQ program. This description of the current fishing pattern under the shorebased IFQ program should take place prior to the scientific review discussed under Item 3 above.

The GMT recommends that prioritized research recommendations be moved into an Appendix to allow for future updates to research and data needs without an FMP amendment.

Item 10: Review and Revise Process

A number of process questions, challenges, and delays have hampered this EFH review. This includes but is not limited to: questions about recusal; the inclusion of the minority reports in the EFHRC Phase 2 Report; and the ongoing questions related to measuring progress of EFH designations and management measures toward meeting the Council's habitat goals. **The GMT recommends that the Council include changes to the process, particularly the inclusion of a scientific review process for new data, in the scope of actions for analysis. The GMT further recommends that a process improvement effort similar to that undertaken for the biennial specifications would benefit future EFH reviews.**

Item 13: Remove small footrope restrictions shoreward of the RCA (Omnibus #47)

In 2006, Amendment 19 required the use of small footrope gear shoreward of 100 fathoms to protect EFH. The small footrope restriction also provides species protections by limiting access to hard-bottom habitats, which was one of the original purposes of encouraging the use of that gear on the shelf (see Section 3.3 of the [Amendment 13 Environmental Assessment](#)). It is difficult to evaluate this proposal without knowing what RCA proposals might be brought forward. The GMT supports retaining this item as an option for scoping.

Items to consider in another rulemaking package

The GMT discussed the following two items relative to their linkage to habitat and recommend that if the Council chooses to analyze them that they be analyzed through a different regulatory package than EFH and area modifications.

Item 12: Allow year-round midwater non-whiting fishery (Omnibus #47)

The GMT notes that the link to habitat does not appear to be very strong for this item. We recognize that consideration for this issue was included in the EFH package because it is believed that midwater gears may make intermittent bottom contact; however no analysis has been conducted to date to determine if and how often such interactions occur for this fishery. Since species targeted in the midwater non-whiting fishery are quota managed, the GMT does not see how extending the season alone would increase bottom contact impacts. However, analysis of this topic might show a change in salmon encounters due to increased midwater trawling earlier in the year (i.e., seasonal impacts for migrating species). **The GMT understands that this topic needs to be analyzed; however, the EFH analysis and rulemaking package might not be the best place for analysis of this item. If this item moves forward here, or in another regulatory package, the GMT recommends that it be considered on a coastwide basis, however south of 40° 10' N. lat., the Council may wish to limit the scope to the area seaward of the 100 fathom depth contour.** Currently, midwater gear is prohibited shoreward of the RCA at 100 fathoms to reduce salmon interactions and the Council may wish to retain such measures under a year-round opportunity. Coastwide consideration would spread the benefit to more of the midwater fleet and would provide a broader range for consideration.

Item 14: Close the 60-mile Bank to reduce cowcod bycatch (Omnibus #66)

The Groundfish Advisory Subpanel (GAP) identified this item due to concern for increased prohibited species impacts (e.g. cowcod and bronzespotted rockfish). Currently, the area is open to the commercial fishery, as it is seaward of the 150 fathom depth contour line as specified in federal regulation; however it is closed to recreational fishing. The current depth contour waypoints specified in federal regulation (50 CFR 660.71 and 660.72) do not extend into this location. Further, establishing the depth contour waypoints in this region may not address the issue. It may be more appropriate to establish an area closure, to fully address the concern for impacts. The vessels fishing this area have not carried observers due to lack of space or being deemed unsafe. Industry members have expressed fear that large prohibited species catches could be observed (e.g. by an enforcement flyover), and multiple fisheries may be curtailed or closed. As a result, this item should be addressed as soon as possible. **The GMT recommends that this be analyzed in another regulatory package that will implement the closure as soon as possible.**

Item 15: Fishing in more than one IFQ management area

This management measure proposes to allow harvesting and selling of fish from two different management areas.⁴ This issue does not have a strong link to EFH and area modifications but rather is primarily an efficiency measure for the IFQ fleet. **As such, the GMT recommends this**

⁴ Movement and setting of fixed gear from one management area to another for the IFQ fishery (baited or unbaited) is scheduled to be evaluated under the Vessel Movement Monitoring (VMM) process. However, harvesting and selling is not covered.

matter be removed from the EFH and Area Modifications package and forwarded under another consideration.

Item 16: Eliminating the selective flatfish trawl requirement shoreward of the RCA
This issue might be more appropriate under the Gear Regulations update since, as noted in Attachment 1, it does not have a strong habitat nexus, which is scheduled for September 2015. Given the considerations for comprehensive RCA modifications, the distinction of shoreward of the RCA may no longer be relevant. The Council should consider the changes in the RCA adjustments as it relates to gear requirements. **The GMT recommends that consideration to remove the selective flatfish trawl requirement be removed from the EFH and Area Modifications package, and forwarded under the gear regulations update Agenda Item currently scheduled for Council deliberation in September of this year.**

Other

Item 5: Cumulative Impacts Analysis

It is our understanding that cumulative effects of EFH and area modifications will automatically move forward as part of any National Environmental Policy Act analysis conducted through the process of amending the FMP.

GMT Recommendations:

- 1. The paucity of new information on habitat associations, use, or fisheries production might narrow the scope of action that the Council wishes to consider.**
- 2. The GMT continues to recommend that the Council articulate their goals with regard to EFH, particularly for habitat protections and minimizing the adverse effects of fishing. Further, the GMT is recommending that the Council initiate a dedicated scientific review process to look at available new information, develop a problem statement, and examine the existing proposals.**
- 3. The GMT recommends the Project Team review the recommendations in the Phase 1 and Phase 2 reports, and other relevant information from the EFH review, and begins drafting updates to the following items from Table 4 ([Agenda Item E.5, Attachment 1](#)):**
- 4. If the Council wants to recommend to NMFS implementation of a closed area beyond 3,500 m, they could use their discretionary authority under the Magnuson Act (Section 303 (2) (A)) as an alternative pathway (i.e. not related to EFH) to include such a closure in the FMP.**
- 5. The GMT strongly recommends that the distinct differences of the purpose and need for EFH (habitat conservation) and RCAs or GCAs (species conservation) be explicitly described.**
- 6. Relative to the comprehensive trawl alternatives, the GMT recommends keeping the scope broad for now. If this issue moves forward, the GMT requests that (1) the Non-Government Organizations and Industry alternatives be brought forward as soon as possible, and (2) the Project Team should bring forward alternatives that include proposals to implement EFH closures within the current RCAs.**

7. **The GMT recommends that prioritized research recommendations be moved into an Appendix to allow for future updates to research and data needs without an FMP amendment.**
8. **The GMT recommends that the Council include changes to the EFH review process, particularly the inclusion of a scientific review process for new data, in the scope of actions. The GMT further recommends that a process improvement effort similar to that undertaken for the biennial specifications would benefit future EFH reviews.**
9. **The GMT understands that the year round mid-water non whiting fishery should be analyzed; however, the EFH analysis and rulemaking package might not be the best place for analysis of this item given the weak nexus to habitat impacts. If this item moves forward here, or in another regulatory package, the GMT recommends that it be considered on a coastwide basis, however south of 40°10' N. lat., the Council may wish to limit the scope to the area seaward of the 100 fathom depth contour.**
10. **The GMT recommends that the 60 Mile Bank closure be analyzed in another regulatory package that will implement the closure as soon as possible because of prohibited species impacts.**
11. **The GMT recommends that fishing in more than one IFQ management areas be removed from the EFH and Area Modifications package and forwarded under another consideration.**
12. **The GMT recommends that consideration to remove the selective flatfish trawl requirement be removed from the EFH and Area Modifications package, and forwarded under the gear regulations update Agenda Item currently scheduled for Council deliberation in September of this year.**

PFMC
04/13/15