

GROUND FISH ADVISORY SUBPANEL REPORT ON ESSENTIAL FISH HABITAT

The Groundfish Advisory Subpanel (GAP) heard a presentation by Mr. Kerry Griffin regarding the current essential fish habitat (EFH) agenda item. Mr. Griffin indicated the primary decision before the Council is whether to move forward with what is known as “Phase 3,” which is a process that includes a fishery plan amendment to possibly change current groundfish EFH designations.

The GAP heard a presentation from Mr. Steve Copps, Dr. Waldo Wakefield and Dr. John Stadler, of the National Marine Fisheries Service (NMFS), seeking input about the direction NMFS is considering at this time. This includes:

1. Initiating the Phase 3 of the process and create a working group of NMFS and Council staff to develop alternatives for altering EFH designations;
2. Incorporating consideration of deep sea corals in the Phase 3 process;
3. Adopting six of the eight proposals for consideration in the Phase 3 process; and
4. Directing the workgroup to work with the Tribes to ensure their concerns are addressed in the alternatives.

Lastly, the GAP heard a presentation from Mr. Geoff Shester and Mr. Ben Enticknap of Oceana, Mr. Seth Atkinson of the Natural Resources Defense Council, and Mr. Greg Helms of Ocean Conservancy, describing their joint proposal to alter EFH designations.

Foremost, The GAP has several concerns regarding the current EFH process and the absence of a final EFH Review Committee (EFHRC) report with specific recommendations. Mr. Griffin explained the EFHRC report does not contain any actual recommendations, due in part to the partial government shutdown. The GAP feels having those recommendations in hand would have been very helpful and informative to our discussion. Instead of those recommendations, we spent a lot of time confused about how exactly to proceed, whether to consider the individual proposals, and exactly what we should recommend.

The ensuing discussions centered around four things: 1) the process for reviewing changes to EFH, 2) questions for which we could not obtain answers, 3) the ultimate impacts to both tribal and non-tribal fleets, and 4) suggestions for improving the process moving forward.

Process

As mentioned earlier, the lack of formal EFHRC recommendations is a huge stumbling block. It would appear that the primary reason the EFHRC report is unfinished is due to the partial government shutdown and the inability of the committee’s Federal employees to review and respond to the internal draft report. However, it appears a decision may have been made about what the path forward should be, absent the formal input from the EFHRC as well as the Council and its stakeholders.

The GAP believes that if Phase 3 does move forward – a situation we wish had been vetted more thoroughly prior to the Council’s determination to keep it on schedule – is contingent on the following conditions:

1. **Analyze the effectiveness of current EFH protections and fisheries’ effect on EFH.** Much has changed since EFH areas were first designated under Amendment 19. The fisheries have changed over the years (e.g. the number of vessels in the trawl fleet has decreased significantly) and fishing behavior has changed (e.g., some areas have been closed, gear modifications have been imposed). Environmental conditions have changed as well.

The GAP agrees with the SSC statement on this topic specifically:

“Should the Council decide to proceed with Phase 3, it would greatly facilitate the process, especially the analysis of alternatives, if the Council evaluated the effectiveness of the current EFH designations and conservation areas relative to meeting its objectives. Without such an evaluation it may be difficult to gauge whether proposed changes to EFH are likely to be improvements.”

2. **Clearly define the process moving forward.** Since it was unclear to the GAP during this meeting, we request the Council establish a timeline and clear guidelines and/or sideboards for evaluating EFH proposals and any potential Fishery Management Plan (FMP) amendments.
3. **Ensure there is adequate funding and staff time.** If a separate workgroup will be created, how will it be funded? There was no mention of establishing or funding this kind of team during the Council’s Budget Committee meeting this week. Will the process stop if there is no budget for it? Do NMFS and Council staff have the time to facilitate this process without sacrificing work on much more immediate issues? Would something else have to drop off the list, and if so, what?

Questions

The GAP had several questions, most of which could not be answered. Some of these may be answered as the process moves forward, but they are questions that should be answered nonetheless.

- How and when will the Tribes be consulted?
- Is the original EFH definition still valid?
- What tests and research are being done now?
- Were baseline studies done?
- What specific stocks are in decline due to loss of EFH?
- We don’t know the relationship between coral and groundfish; is coral really EFH?

Impacts to fishing fleets

One of the GAP's main concerns is the ultimate effect on fishing fleets. This may be a bit premature, as any proposals would still be vetted through the Council process, should the Council determine a viable method of doing so moving forward.

Still, the GAP recommends any proposal elements that include extending EFH conservation area closures to mid-water trawl gear and to areas beyond 3,500 meters in depth should not move forward.

The proposers argue that bottom contact with mid-water trawl gear is likely occurring within EFH Conservation Areas because information in the Phase I report estimated that 25 percent of mid-water trawl tows had contact with the bottom that occurs "predominantly in soft sediment habitats." EFH Conservation Areas are located in hard bottom habitats where bottom contact by mid-water trawl gear is not reasonably likely to occur. This is corroborated by observer reports and logbook data.

The proposers argue that fishing in waters deeper than 3,500 meters should be prohibited as a precautionary measure, yet provide no new scientific information that would link that area to management of FMP species, which is required in the development of EFH management measures. This proposal was rejected by NMFS last time EFH measures were considered. There has been no new information presented for it to be treated any differently at this time.

Areas in Tribal usual and accustomed areas (U & As) that would be closed to non-tribal fishermen could affect Tribal communities, as those fishermen would change areas and not access ports and facilities operated by the tribes. Closing EFH in tribal areas also creates a conundrum: Tribal fishing may not be restricted unless intergovernmental agreements and consultation are completed, yet non-tribal fishermen *would* be restricted. So is there really any point to propose protections in Tribal U&As?

Recommendations

After a thorough discussion, the GAP believes information provided to the GAP does not provide us a basis for determining whether it is warranted to move to Phase 3. Ultimately it is the Council's decision to move to Phase 3. Some on the GAP felt there was sufficient information to move to Phase 3; others felt that for a variety of reasons, there was insufficient information to move forward.

With these thoughts in mind, the GAP offers these recommendations:

1. If the proposals move forward at all, we recommend they clearly state what the GAP can and cannot do, and only when the conditions listed under "Process," above, are met.
2. Don't mix coral initiatives with the EFH process; it's a completely different section of the Magnuson-Stevens Act and coral is not an FMP species.

3. Consider other options to increasing EFH designation: work collaboratively with the fishing industry through gear modification, fleet behavior changes, trawl industry co-op management.
4. If the Council proceeds to Phase 3 and adopts the suggestion by NMFS to form a working group, then the Council should also appoint an advisory body to review and consider work products developed by the working group. This would ensure stakeholder input in the process.

PFMC
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