

Southern New England Habitat Area of Particular Concern Framework

**Northeast Multispecies Fishery Management Plan
Framework Adjustment 64**

**Atlantic Sea Scallop Fishery Management Plan
Framework Adjustment 35**

**Monkfish Fishery Management Plan
Framework Adjustment 14**

**Northeast Skate Complex Fishery Management Plan
Framework Adjustment 10**

**Atlantic Herring Fishery Management Plan
Framework Adjustment 10**

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**FRAMEWORK ADJUSTMENT 64 TO THE NORTHEAST MULTISPECIES FISHERY
MANAGEMENT PLAN**

**FRAMEWORK ADJUSTMENT 35 TO THE ATLANTIC SEA SCALLOP FISHERY
MANAGEMENT PLAN**

FRAMEWORK ADJUSTMENT 14 TO THE MONKFISH FISHERY MANAGEMENT PLAN

**FRAMEWORK ADJUSTMENT 10 TO THE NORTHEAST SKATE COMPLEX FISHERY
MANAGEMENT PLAN**

**FRAMEWORK ADJUSTMENT 10 TO THE ATLANTIC HERRING FISHERY MANAGEMENT
PLAN**

Proposed Action: Designate a Habitat Area of Particular Concern within and around wind lease areas in Southern New England, including around Cox Ledge, to focus conservation recommendations on cod spawning habitats and complex benthic habitats.

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Abstract: The New England Fishery Management Council, in consultation with NOAA's National Marine Fisheries Service, has prepared this framework adjustment to multiple Council Fishery Management Plans (FMP). Through this action, the Council will develop Habitat Area of Particular Concern designation alternatives for the Southern New England region.

1.0 EXECUTIVE SUMMARY

Habitat Areas of Particular Concern (HAPCs) support the development of conservation measures through the Essential Fish Habitat (EFH) consultation process by providing focal locations and habitat types where the Council recommends an especially hard look at the impacts of federally permitted activities. HAPCs do not directly restrict fishing or non-fishing ocean activities, but actions to avoid, minimize, or mitigate impacts on habitats are strongly encouraged within HAPCs. HAPCs provide a clear indication of the value the Council places on specific habitat types and functions, and underscores recommendations to protect such habitats from impacts.

This action considers five alternatives for HAPC designations for Southern New England including a No Action alternative (Alternative 1) which would not designate any new HAPCs.

Alternatives 2 and 3 identify existing (Alternative 2) and existing and potential Atlantic cod spawning grounds (Alternative 3) as HAPCs. Alternative 2 is a subset of Alternative 3. Both alternatives identify a location on and around Cox Ledge where cod spawning activity is indicated based on a recent acoustic survey and other data sources. Alternative 3 also identifies a broader area of Southern New England within which the HAPC designation would be applied if additional cod spawning activity is documented by future data/studies. The alternatives include a list of data sources that could be used to indicate cod spawning. Work to evaluate cod spawning in Southern New England is ongoing such that the near-term identification of additional spawning sites is plausible.

Alternative 4 would designate areas of complex habitat within a broad Southern New England footprint as HAPC for certain life stages of Atlantic cod, Atlantic herring, Atlantic sea scallop, little skate, monkfish, ocean pout, red hake, winter flounder, and winter skate that use these habitats. The alternative includes a definition of complex habitat and a list of data sources that can be used to determine where complex habitat occurs within the broader HAPC footprint. Existing but not publicly available project-specific data, or other data collected in the future, could be used to trigger this HAPC designation.

Alternative 5 combines elements of Alternatives 2, 3, and 4 into a multipurpose HAPC that is focused on the area of Southern New England leased for offshore wind energy development, plus additional sites around Cox Ledge beyond leased areas where there is evidence of cod spawning activity. Alternative 5 is the Council's preferred alternative. Like Alternatives 3 and 4, the designation is applied during consultation on a particular project if the best available data at the time of consultation indicate that the project area supports cod spawning or contains complex habitat. This alternative allows NOAA Fisheries to use available data to determine whether to consult on a project area as an HAPC, without the need for additional action from the Council.

Actions that promote conservation of both spawning areas and complex habitats during offshore development are recommended through the Council's December 2021 [Offshore Wind Energy Policy](#). The problem statement and objectives for this action are reflective of this policy.

This framework document includes an introduction (Section 3.0) that describes what HAPCs are, how HAPCs are used, the problem statement and objectives for this action, and other HAPCs and fishery management areas in Southern New England. Section 4.0 describes the alternatives in detail, including rationale. Section 5.0 provides additional supporting information related to EFH, species distribution, cod spawning and stock structure, offshore wind development impact producing factors and mitigation measures, and fishery descriptions. Section 6.0 describes potential impacts of the alternatives. These impacts are related to the potential for the designations to improve habitat conservation.

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ACRONYMS

AC	Alternating current
BOEM	Bureau of Ocean Energy Management
CFR	Code of Federal Regulations
COP	Construction and Operations Plan
DC	Direct current
EcoMon	Ecosystem Monitoring
EFH	Essential Fish Habitat
FMP	Fishery management plan
FW	Framework
GARFO	Greater Atlantic Regional Fisheries Office
GB	Georges Bank
GLOBEC	Global Ocean Ecosystem Dynamics
GOM	Gulf of Maine
HAPC	Habitat Area of Particular Concern
HMA	Habitat Management Area
MADMF	Massachusetts Division of Marine Fisheries
MARMAP	Marine Resources Monitoring and Assessment and Prediction
NEFMC	New England Fishery Management Council
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
PAM	Passive Acoustic Monitoring
SMAST	School for Marine Science and Technology
SNE	Southern New England
USGS	United States Geological Survey
WEA	Wind Energy Area

3.0 INTRODUCTION

3.1 WHAT ARE HABITAT AREAS OF PARTICULAR CONCERN?

NOAA Fisheries has issued both regulations and guidance related to designation of EFH (Essential Fish Habitat) and HAPCs. From the 2002 EFH regulations, specific habitat types or areas with EFH are denoted as HAPC based on one or more of the following criteria (50 CFR Part 600.815(a)(1)(i))¹:

1. Importance of:
 - a. Historic Ecological Function – area or habitat feature previously provided an ecological function for managed species such as predation protection, increased food supply, and spawning sites but no longer provides this function due to degradation.
 - b. Current Ecological Function – area or habitat feature currently provides an ecological function for managed species.
2. Sensitivity to Anthropogenic Stresses – area or habitat feature is particularly sensitive to adverse anthropogenic fishing or non-fishing activities; sensitivity level determined by absolute value or relative to other areas/habitat features for a particular managed species.
3. Extent of Current or Future Development Stresses – area or habitat feature facing an existing or foreseeable on-going development-related threat such as offshore wind development.
4. Rarity of the Habitat Type – habitat feature is considered rare (occurs infrequently, is uncommon, highly valued; spatially or temporally very limited or a unique combination thereof) within New England or for a life history stage of a managed species.

NMFS Procedure 03-201-15² (2006, renewed 2018) provides additional guidance on implementation of the EFH and HAPC provisions of the MSA. The guidance includes the following recommendations for HAPC identification:

- HAPCs should be identified using a process that maximizes public input, allows for a systematic evaluation of existing HAPCs, and can be built upon and be responsive to any HAPC identification needs.
- Areas designated as HAPCs should be based on at least one of the four HAPC criteria provided in the EFH regulatory guidelines (50 CFR 600.815(8)).
- The description of each potential HAPC should state the purpose of identifying a particular HAPC and how that identification will focus conservation efforts.
- Actions should be identified to encourage the conservation and enhancement of HAPCs including recommendations to avoid, minimize, or compensate for adverse effects from fishing and/or non-fishing activities.
- HAPCs should be discrete areas with clearly defined geographic boundaries. Councils should strive to use geographically specific information to identify HAPCs. The description of each HAPC should include geographic coordinates (latitude/longitude), area size for each HAPC in text or tables, and a map of the HAPC depicting its location. In circumstances where there is not sufficient information on the spatial distribution of habitat features comprising an HAPC, a thorough qualitative description of the HAPC boundaries should be provided. The identification of specific areas with geographically explicit boundaries will clarify where priority conservation action should be applied for both fishing and non-fishing management actions.
- Descriptions of individual HAPCs in FMPs should include:
 - a thorough discussion of the analysis that occurred during the HAPC designation process;

¹ <https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-J/section-600.815>

² <https://media.fisheries.noaa.gov/dam-migration/03-201-15.pdf>

- a detailed description of the physical, chemical, and biological characteristics of the HAPC, as well as its geographic location;
- a description of the link between HAPC designations and the biological and ecological needs of a particular management unit (assemblage), species, or life stage;
- the rationale for why a specific area deserves special designation as a HAPC based on the four criteria found in the EFH Regulations and any additional priority issues identified by the Council for fishery conservation and management; and
- a description of any monitoring and/or evaluation frameworks that may be called for to determine the effectiveness of the HAPC in achieving stated objectives.

3.2 HOW ARE HAPCs USED?

HAPCs are designated subsets of EFH that receive additional attention from NOAA Fisheries when the agency comments on Federal and state actions that could impact designated EFH. These comments are developed as part of the EFH consultation process which provides non-binding³ conservation recommendations to mitigate the impacts of projects. Specifically, the Council's HAPC designations underscore and emphasize the importance of specific locations and habitat features. The Council's designations and the associated documentation and information sources used to support the designation can be referenced during EFH consultations completed for all proposed fishing and non-fishing activities that might affect the HAPC. Proposed activities include offshore wind and aquaculture development, commercial and recreational fishing activity, port/harbor development and maintenance, installation of cables for energy or telecommunication, etc.

HAPCs designations do not directly restrict activities that occur within their boundaries, including fishing or offshore development. However, EFH consultations identify measures to avoid, reduce, or compensate for adverse impacts to fish habitat if an action might adversely affect EFH, and NOAA Fisheries may choose to recommend additional mitigation and conservation measures within designated HAPCs given the level of importance of the designated areas. The HAPC designation can also be used early in the development process, prior to the availability of an EFH Assessment. For example, an HAPC could be used during project scoping to underscore a recommendation that habitat impact minimizing alternatives be evaluated in an Environmental Impact Statement. Specific areas or habitat features within an HAPC may receive particular conservation focus leading to more restrictive recommendations on offshore development activities as compared to other areas of designated EFH. Additional information on the EFH consultation process can be found in Appendix A and in NMFS Procedure 03-201-11⁴.

3.3 PROBLEM STATEMENT AND OBJECTIVES

The Council identified the following problem statement and objectives for this action.

Problem statement:

A new Habitat Area of Particular Concern in Southern New England is needed to provide conservation focus for specific New England Council-managed species with EFH in the area. This is due to concerns about impacts from offshore development, specifically offshore wind in the near term, and possibly offshore aquaculture in the future.

³ Action agencies must respond in writing to conservation recommendations but adoption of these measures is not required.

⁴ NMFS Guide to EFH Consultations, December 2004. Available from [NOAA Fisheries](https://www.noaa.gov/fisheries).

Objectives:

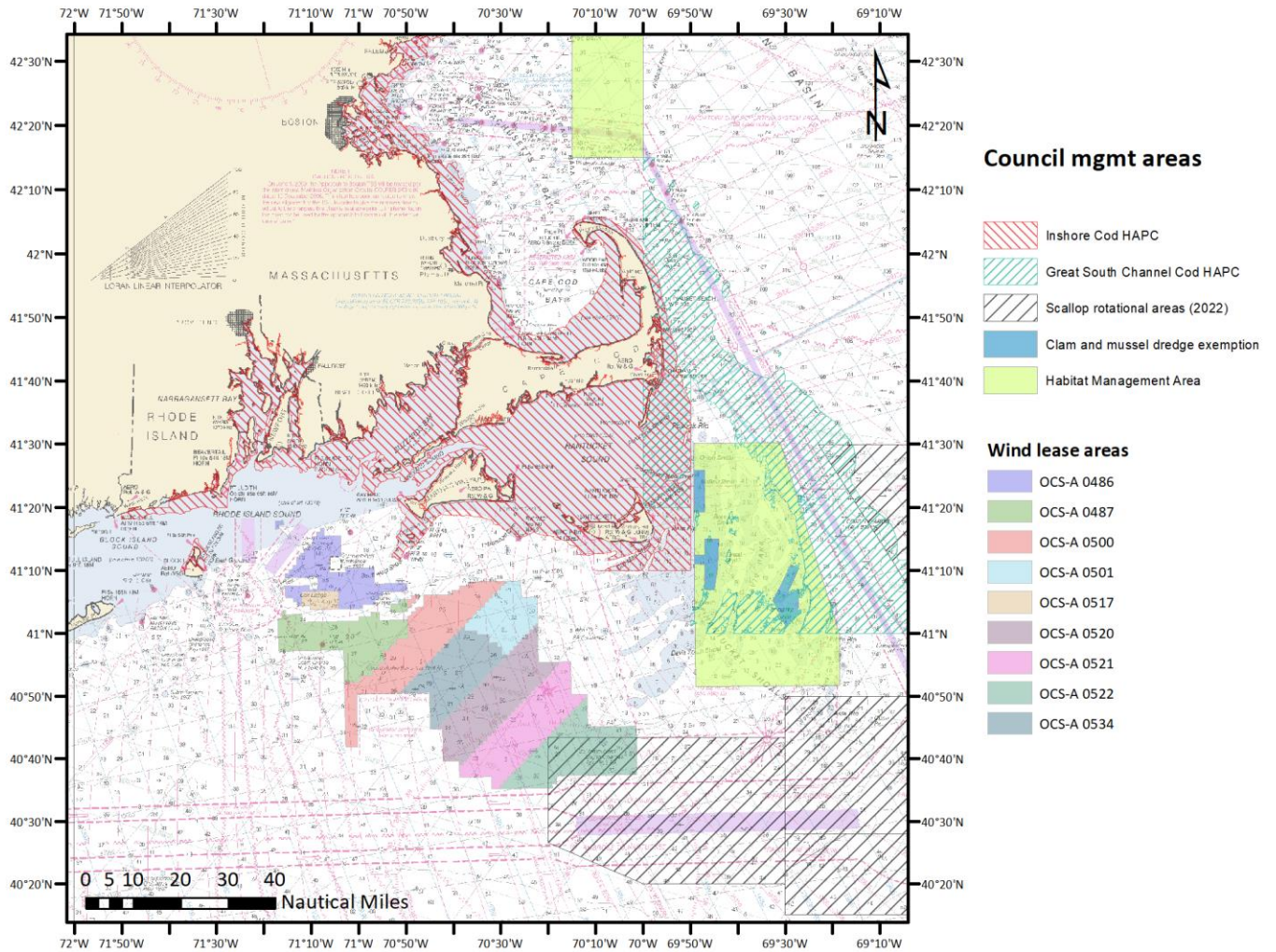
1. Encompass locations and habitat features that are important to NEFMC-managed species, including coordinates that spatially bound the designation, and a list of habitat features, i.e., sediment types, associated structures, and/or prey species that are part of the designation.
2. Identify life history stages (e.g., juvenile, adult) or activities (e.g., feeding, spawning) that the HAPC supports.
3. Be more specific and focused than overlapping EFH designations so that the HAPC adds value to the EFH consultation process.
4. Support development of conservation recommendations that lead to improved groundfish spawning protection, including protection of localized spawning contingents or sub-populations of stocks (e.g., Atlantic cod).
5. Support development of conservation recommendations that lead to improved protection of critical groundfish habitats, especially refuge for critical life history stages.
6. Support development of conservation recommendations that will avoid and minimize other impacts to fish habitats.

3.4 OTHER HAPCs AND FISHERY MANAGEMENT AREAS IN SOUTHERN NEW ENGLAND

Other HAPCs in the Southern New England region include an Inshore Juvenile Cod HAPC which is a subset of juvenile cod EFH shallower than 20 meters, and overlaps areas of state and federal waters. There is also a Juvenile Cod HAPC in the Great South Channel. Neither of these areas encompass the habitats of concern under consideration as alternatives in this action.

Additional management areas in Southern New England include the Great South Channel HMA, which prohibits the use of mobile bottom-tending gear, except for three exemption areas that allow surfclam and mussel dredging. Scallop rotational management, wind lease areas, and other research, habitat management, and groundfish areas are also shown on Figure 1.

Figure 1. Map of Great South Channel and inshore juvenile cod HAPCs, current Habitat Management Areas, scallop rotational areas, and overlapping wind lease areas.



4.0 ALTERNATIVES UNDER CONSIDERATION

HAPC are, by definition, a subset of designated EFH. For some alternatives, the spatial extent of underlying EFH designation influences the boundaries of the proposed HAPC.

4.1 ALTERNATIVE 1 – NO ACTION

Under No Action, no new HAPC(s) would be designated in Southern New England. Essential Fish Habitat designations and the existing inshore juvenile cod HAPC designated via OHA2 would remain the foundation for the EFH consultation process and related Council engagement in offshore energy and other projects.

Rationale: NOAA Fisheries will continue to conduct EFH consultations absent the designation of new HAPCs. These consultations will be based on the Council’s EFH designations and on existing and emerging scientific information on fish and habitat distributions and use, and on the impacts of offshore development on fish and habitats.

4.2 ALTERNATIVE 2 – COX LEDGE COD SPAWNING HAPC

This alternative would designate cod spawning grounds on and surrounding Cox Ledge as an HAPC (see Figure 2). The HAPC area overlaps designated EFH for egg, larval, and adult Atlantic cod.

This spawning ground is demarcated spatially based on positive detections of cod mating sounds (grunts) and detections of tagged adult cod in recent acoustic surveys, release locations of tagged cod in ripe, running, or spent condition, and catches of ripe, running, or spent cod during the recent cod spawning surveys. The HAPC boundary combines observations indicating spawning sites across multiple data sources into a single polygon with a 500 m buffer around the observations (Figure 3). The spatial extent of the spawning ground identified here is defined based on available data (i.e., limited to spatial extent of surveys) and is therefore uncertain.

Within the HAPC, discrete locations of cod spawning activity are identified (Figure 3). During the EFH consultation process, these specific areas of spawning activity within the HAPC could be considered a higher priority when providing conservation recommendations as compared to the HAPC as whole. For example, time of year restrictions on construction could be recommended for the specific spawning sites within the HAPC, while measures that minimize alteration of habitat could be recommended for the entire HAPC. Conservation recommendations will vary by development activity, and activities within and outside the HAPC could affect cod spawning within the HAPC.

The HAPC is considered a year-round designation. Information on the timing of the spawning season is provided below as it relates to development of conservation recommendations during the EFH consultation process (e.g., time of year restrictions on construction during the spawning season).

Rationale

The purpose of this HAPC designation is to provide conservation focus on important cod spawning grounds within and adjacent to offshore development areas. This HAPC designation meets all four EFH Final Rule HAPC criteria: importance of ecological function, sensitivity to anthropogenic stresses, extent of current and future development stresses, and rarity (Table 1).

The importance of protecting these spawners is underscored by the poor status of cod stocks, evidence that spawning cod exhibit site fidelity to Southern New England, and that these fish constitute a separate biological stock based on multiple metrics (McBride, et al. in review, see section 5.4.2 for additional details). At present, for resource assessment purposes, cod in Southern New England are considered to be part of the Georges Bank cod stock, which is overfished and experiencing overfishing. Contrary to

expectations, based on temperature increases for this cold-water species, cod abundance appears to be increasing in Southern New England (Langan et al. 2020, see section 5.2 for further details).

Cod spawning in Southern New England, as in other regions, occurs in specific locations and at specific times. A known spawning ground is the area east of Block Island on and around Cox Ledge. This area is used from late fall through early spring. Various data sources are used as evidence of cod spawning activity in the vicinity of Cox Ledge. The data sources used to identify this HAPC are indicative of cod spawning grounds and activity and, in some instances, show cod spawning aggregations.

Acoustic telemetry and passive acoustic monitoring (PAM) techniques are being used in combination to help define the spatial and temporal extent of this spawning ground (Van Hoeck et al. in review; Van Parijs 2022). This work is ongoing. Data reviewed during development of this framework were collected during 2019-20 and 2020-21; results from the 2021-22 field season are not yet available. Telemetry is used to detect tagged cod at the study site and PAM is used to listen for cod grunts. Cod were tagged at the site during the spawning season. The absence of cod detections in the acoustic data does not indicate that an area is not used for spawning. The fixed and mobile acoustic receivers detect acoustically tagged cod and listen for cod grunts, but the detection radii of these devices are small. For detections to occur, cod must be close to the receivers in both space and time. One or a few tag detections or grunts could indicate low spawning activity, or a mismatch between the location of grunting fish and the hydrophones. Absent additional data, the size of the aggregation cannot be fully known. However, given these small detection radii, if a single fixed acoustic receiver detects numerous grunts, then that is likely an indicator of spawning aggregation with many fish. Repeated use of a site across years is also an indicator of the area's importance. An advantage of the acoustic data is that they show the exact location of the tagged or vocalizing cod.

Additional evidence for spawning at this site comes from 2007-2011 tagging studies (Loehrke 2014, Cadrin, et al. in review). Tagging data show release locations, each of which may represent a few to dozens of cod. These tagging studies were not intended as synoptic surveys of the region, so the absence of releases at a location may simply indicate an absence of fishing effort at that location. Recapture data are not presented here, but an analysis of cod movement indicated by data storage tagging indicates that cod in Southern New England exhibit site fidelity (Cadrin et al., in review). If tagged cod are regularly recaptured within the area then that suggests spawning site fidelity (Zemeckis, et al., 2014).

In addition, surveys targeting spawning cod were conducted in spring 2018 and winter 2018-spring 2019 for the South Fork Wind Farm (Balouskus et al. 2019, Gervelis and Carey 2020). These 2018 and 2018-19 surveys were aimed at identifying the locations of any cod spawning aggregations encountered and characterized the cod by spawning condition. These surveys are not a comprehensive evaluation of all cod spawning aggregations within the region but do indicate locations where fish in spawning condition occurred during two recent spawning seasons.

For mitigating the impacts of offshore development on spawning behaviors, it is important to understand the duration of the spawning season. Overall, based on multiple sources of information, cod spawning in Southern New England occurs between November through April. The ongoing acoustic research described above has found that cod grunts are most prevalent from November through January. However, cod spawn over a period of one to two months, and the mating behaviors associated with grunting occur during the earlier portion of the spawning season. Other studies have sampled adult cod at these sites to look for ripe and running fish, i.e., cod that are about to spawn or are actively spawning (see Table 8 for a description of maturity stages). Gonad data collected during these studies indicate that some fish remain in spawning condition through April (Dean, et al, in review). Egg and larval cod abundance data indicate the success of spawning. Early-stage eggs cannot be distinguished from those of haddock or witch flounder, so larval data are a clearer indicator that spawning occurred in the weeks prior to the detection of larvae. Dean et al. (in review) examine cod larval data from multiple long-term ichthyoplankton surveys (MARMAP, GLOBEC, EcoMon, etc.). Because eggs and larvae move with the currents, spatial

data on where larvae are captured is not a precise indicator of the location where spawning occurred, but these data are useful for indicating the temporal extent of the spawning season. The presence of early-stage larvae indicates that spawning near Cox Ledge continues through April (Dean, et al., in review).

Various activities could impact cod spawning, and a range of conservation recommendations may be appropriate depending on the mechanism of impact. During the spawning season, noises associated with the construction, operations, and maintenance phases of offshore development can mask cod communication. Mechanical disturbance is also of concern. Once a spawning aggregation is disturbed, it might not reform during that spawning season (Dean et al. 2012). However, van der Knaap (2022) found that resident Atlantic cod in the North Sea did not relocate out of the study area during pile driving associated with construction of a new wind farm (see section 5.5.1 for additional discussion of this work). More information on offshore wind development impacts is provided in section 5.5.1, and possible mitigation measures are outlined in section 5.5.2.

Beyond disturbance of spawning activities during the spawning season, permanent habitat alterations at spawning sites could render the site less suitable or perhaps unsuitable for spawning. Evidence from Massachusetts Bay indicates that cod return to very specific and small-scale seafloor features to perform courtship displays (Dean, et al. 2014). Placing wind turbines or substations on or near to these features could lead to their abandonment as spawning sites.

Protecting egg and larval stages is also important for mitigating impacts of offshore development on the entire reproductive cycle. Cod eggs cannot be distinguished from certain other species, though larvae can, and the spatial distribution of larvae could be used to generally indicate the locations of spawning sites. Conservation recommendations that would be appropriate for minimizing impacts on eggs and larvae include avoidance of water entrainment and minimizing effluent discharge by using closed loop cooling techniques at conversion stations.

While Atlantic cod is the focus of this designation, additional species of concern should also benefit from conservation measures recommended based on this HAPC (see section 6.2).

Table 1. Description of whether and how Alternative 2 meets one or more of the EFH Final Rule HAPC criteria.

HAPC qualifying criteria	Does alternative meet HAPC criteria?	How does the alternative meet HAPC criteria?
<i>Importance of historic and/or current ecological function</i>	Yes	Area is a spawning site for Atlantic cod. Currently these fish are part of the Georges Bank stock, which is overfished and experiencing overfishing. However, cod in Southern New England are a genetically distinct sub-population, per recent stock structure work. Because the sub-population contributes to the Georges Bank cod stock, any impacts to these spawners could detrimentally impact Georges Bank cod.
<i>Sensitivity to anthropogenic stresses</i>	Yes	Cod spawning activities are particularly sensitive to adverse impacts from non-fishing activities including from offshore wind development which can physically and acoustically disturb the fish and influence their behaviors.

HAPC qualifying criteria	Does alternative meet HAPC criteria?	How does the alternative meet HAPC criteria?
<i>Extent of current or future development stresses</i>	Yes	This area is facing an existing on-going development-related threat from offshore wind.
<i>Rarity of habitat type</i>	Yes	Cod spawning habitats (based on acoustic environment, seafloor and water column setting) are rare with only one known grouping of active sites in Southern New England.

Figure 2. Alternative 2 HAPC designation (red polygon). Also shown: Atlantic cod adult EFH and wind lease areas.

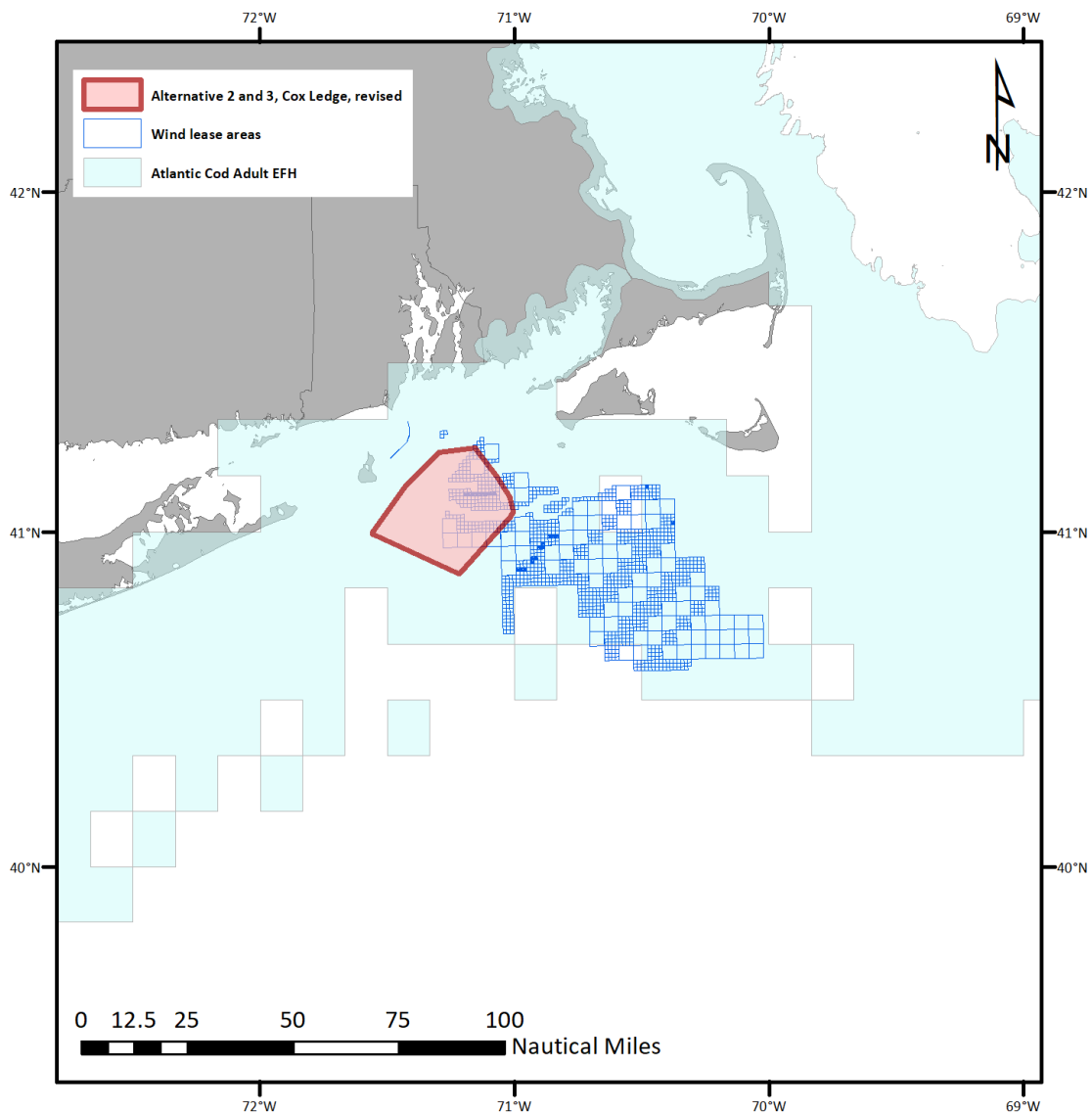
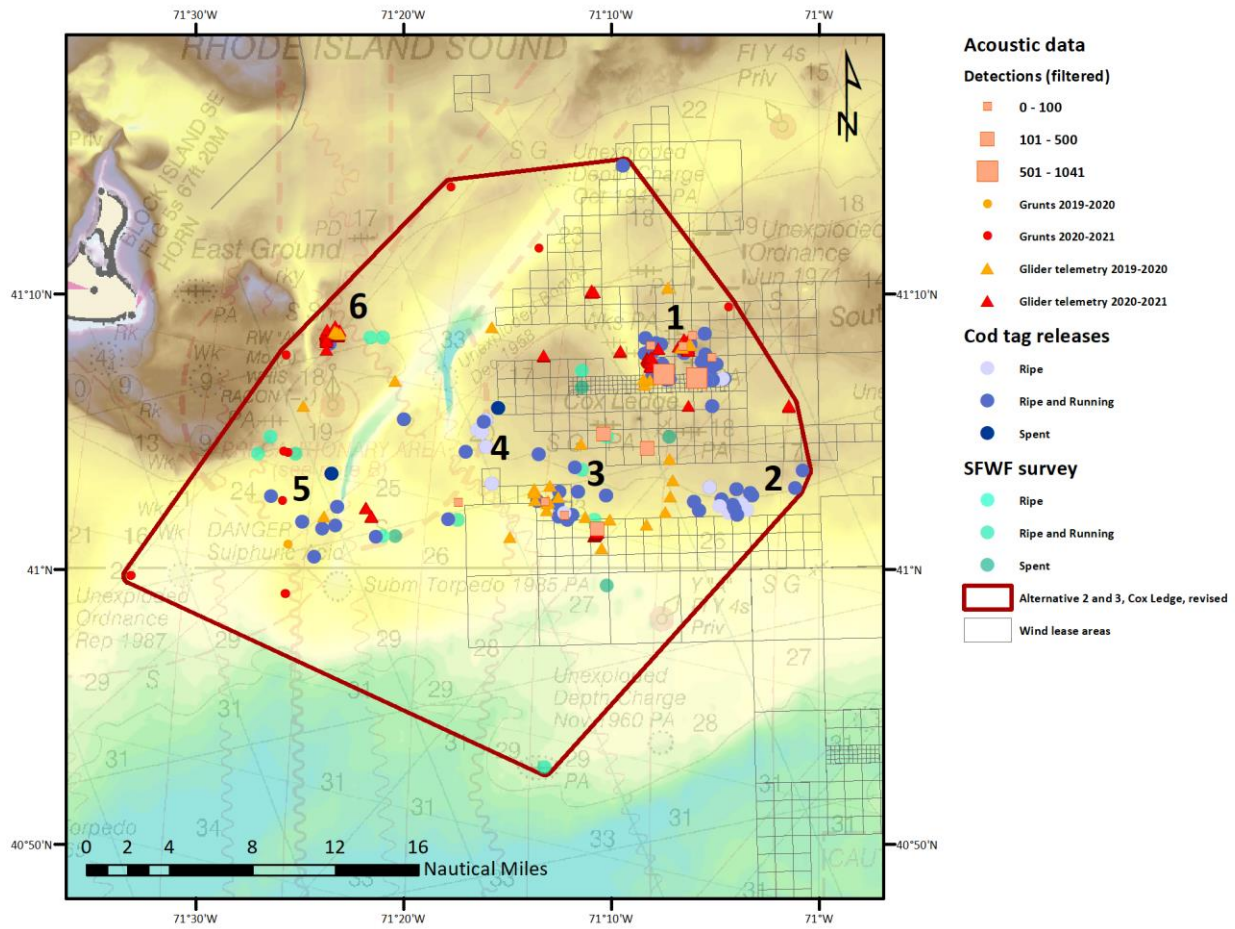


Figure 3. Alternative 2 HAPC showing various data sources as described in the text. Rough clusters of observations are numbered.



4.3 ALTERNATIVE 3 – COD SPAWNING HAPC ENCOMPASSING COX LEDGE AND SITES IDENTIFIED IN THE FUTURE BASED ON NEW DATA

This alternative would designate the spawning grounds on and around Cox Ledge (see Alternative 2) and any future cod spawning grounds identified in Southern New England as Habitat Areas of Particular Concern. On Figure 4, the red polygon represents the Cox Ledge spawning ground and the hatched area represents the intersection between the statistical areas corresponding to the potential Southern New England cod stock boundary (537, 538, 539, 611, 612, 613) and egg, larval, or adult cod EFH.

EFH consultation on activities within the hatched area is recommended when evidence of cod spawning is identified in the future by the Council or NOAA Fisheries. When applying the HAPC designation, evidence of cod spawning activity at a site could be based on:

- Capture of ripe, running, or spent cod during fishery independent surveys,
- Detections of acoustically tagged fish between November and April,
- Detections of cod grunts in acoustic surveys,
- Capture of cod larvae in ichthyoplankton surveys,
- Evidence of eggs in ichthyoplankton surveys (not species specific but indicative of spawning success).

The following are examples of data sources that can be used to indicate cod spawning. This list is not exhaustive, and other suitable data sources might also be considered.

- Project-related survey data collected before, during, or after construction,
- State or federal fishery independent surveys,
- Acoustic surveys and tagging studies, or
- Traditional survey tagging studies.

The HAPC boundaries defined here for the spawning grounds on Cox Ledge were created by drawing a boundary around clusters of observations and then adding a 500-m buffer⁵ around the outside edge of the boundary (see Alternative 2 for additional details about data sources used). This approach should also be used with any new data.

The HAPC is considered a year-round designation. Information on the timing of the spawning season is provided above for Alternative and pertains to this alternative as well. This information relates to development of conservation recommendations during the EFH consultation process (e.g., time of year restrictions on construction during the spawning season).

Rationale

The purpose of this HAPC designation is to provide conservation focus on important cod spawning grounds within and adjacent to offshore development areas. This HAPC designation meets all four EFH Final Rule HAPC criteria: importance of ecological function, sensitivity to anthropogenic stresses, extent of current and future development stresses, and rarity (Table 2). More information on offshore wind development impacts is provided in section 5.5.1, and possible mitigation measures are outlined in section 5.5.2.

The rationale for Alternative 2 applies equally to Alternative 3 and is not repeated here. Alternative 3 is more precautionary than Alternative 2, in that it allows for identification of cod spawning grounds in areas that have previously not been the focus of research related to spawning site identification. For example, the acoustic work described under Alternative 2 and in Section 5.4.1 is ongoing, and additional

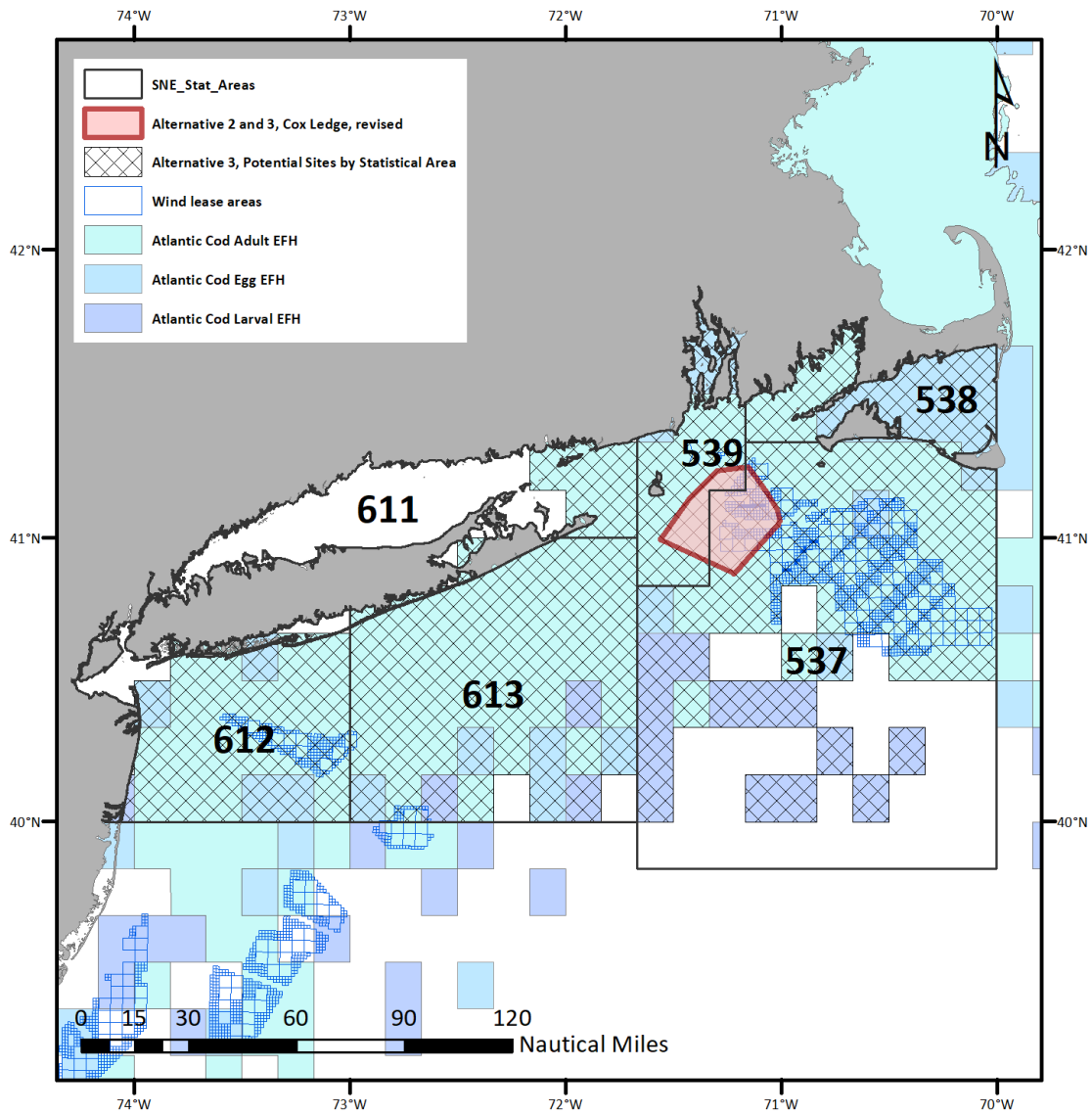
⁵ A larger buffer might be considered based on the distance over which an activity could affect the quality of fish habitat.

sampling is planned for areas east of the existing Cox Ledge spawning ground. If further research identifies new cod spawning grounds and areas of spawning activity and/or aggregations within any of the hatched area of Alternative 3, then EFH consultations should give attention to these additional areas.

Table 2. Description of whether and how Alternative 3 meets one or more of the EFH Final Rule HAPC criteria.

HAPC qualifying criteria	Does alternative meet HAPC criteria?	How does the alternative meet HAPC criteria?
<i>Importance of historic and/or current ecological function</i>	Yes	Subset(s) of area is currently a spawning site for Atlantic cod (see Alternative 2). Additional areas would only be considered HAPC if discrete cod spawning grounds are identified based on future data.
<i>Sensitivity to anthropogenic stresses</i>	Yes	Subset(s) of area include cod spawning grounds which are particularly sensitive to adverse non-fishing activities, namely from offshore wind development (construction, operations, maintenance). Additional areas would only be considered HAPC if discrete cod spawning grounds are identified based on future data.
<i>Extent of current or future development stresses</i>	Yes	Subset of area is facing an ongoing development-related threat from offshore wind. Additional areas would only be considered HAPC if discrete cod spawning grounds are identified based on future data.
<i>Rarity of habitat type</i>	Yes	Cod spawning habitats are rare with only one grouping of active sites in Southern New England.

Figure 4. Alternative 3 HAPC designation (red polygon and black hatching) within SNE stock area only. Also shown: Atlantic cod egg, larval, and adult EFH, and wind lease areas. Adult EFH overlays egg EFH, and egg EFH overlays larval EFH.



4.4 ALTERNATIVE 4 – COMPLEX HABITAT HAPC FOR MULTIPLE SPECIES AND LIFESTAGES

Alternative 4 would designate all areas in Southern New England with complex habitats as a Habitat Area of Particular Concern (the HAPC would be defined as complex habitat areas within the shaded area shown in Figure 5). This designation would apply within EFH designated for the following species and lifestages with stock boundaries within the Southern New England area (west of 70° W): Atlantic cod juveniles and adults, Atlantic herring eggs, Atlantic sea scallop eggs, juveniles, and adults, little skate juveniles and adults, monkfish juveniles and adults, ocean pout eggs, juveniles, and adults, red hake juveniles and adults, winter flounder eggs, juveniles, and adults, and winter skate juveniles and adults.

Complex habitats are defined as:

- Hard bottom substrates, defined by the Coastal and Marine Ecological Classification Standard (CMECS) as Substrate Class Rock Substrate and by the four Substrate Groups: Gravels, Gravel Mixes, Gravelly, and Shell. This CMECS modifier was developed by NOAA Fisheries for their habitat mapping recommendations, including both large-grained and small-grained hard habitats.
- Hard bottom substrates with epifauna or macroalgae cover.
- Vegetated habitats (e.g., submerged aquatic vegetation and tidal wetlands).

The following are examples of data sources that can be used to indicate complex habitat. This list is not exhaustive, and other suitable data sources might also be considered.

- Project-related survey data collected before, during, or after construction,
- Glacial moraine data (The Rhode Island Coastal Resources Management Council)
- Eelgrass meadows, submerged aquatic vegetation – compilation of the following datasets:
 - o Massachusetts Department of Environmental Protection
 - o Massachusetts Division of Marine Fisheries
 - o MassGIS
 - o Rhode Island Eelgrass Task Force
 - o RIGIS
 - o Connecticut Department of Energy and Environmental Protection
 - o Peconic Estuary Partnership
 - o New York Natural Heritage Program (New York State Department of Environmental Conservation)
- Tidal marsh vegetation (Saltmarsh Habitat and Avian Research Program)
- Shellfish habitat (Maine, Massachusetts, and New Hampshire clam, mussel, oyster, and scallop tidal data layers)
- Percent sediment type indicating presence of granule and pebble, cobble, and boulder sediments from the Northeast Fishing Effects Model (primarily based on USGS usSEABED and the SMAST/UMass Dartmouth drop camera survey)
- Long Island Sound Blue Plan hard bottom / benthic biological habitat data
- Massachusetts Coastal Zone Management seafloor sediment database

As additional data are collected in the future that indicate the presence of complex habitat, then consultation would occur within these areas as well, like Alternative 3 with future-identified cod spawning areas.

Rationale

The purpose of this HAPC designation is to provide conservation focus on complex benthic habitats within and adjacent to offshore development areas. This HAPC designation meets at least three of the four EFH Final Rule HAPC criteria: importance of ecological function, sensitivity to anthropogenic stresses, and extent of current and future development stresses (Table 3).

Complex habitat provides shelter for certain species during their early life history, refuge from predators and feeding opportunities. Designating complex habitats in Southern New England as a HAPC would provide conservation focus for multiple species with EFH and a stock in Southern New England that are likely to be impacted by offshore wind development. The alternative would inherently account for any climate-related spatial shifts in stocks within the Southern New England region.

Effects of wind development may include physical habitat conversions and losses, scour and sedimentation, construction and operational noise, electromagnetic fields, micrometeorological effects, water entrainment effects, and water-column hydrodynamic effects (including thermal changes and changes in currents that influence pelagic habitats). These impacts may occur during installation and operation of turbines, substations, offshore conversion stations, inter-array cables, and export cables, and as a result of survey and maintenance operations. See section 5.5.1 for further information on potential impacts of offshore development.

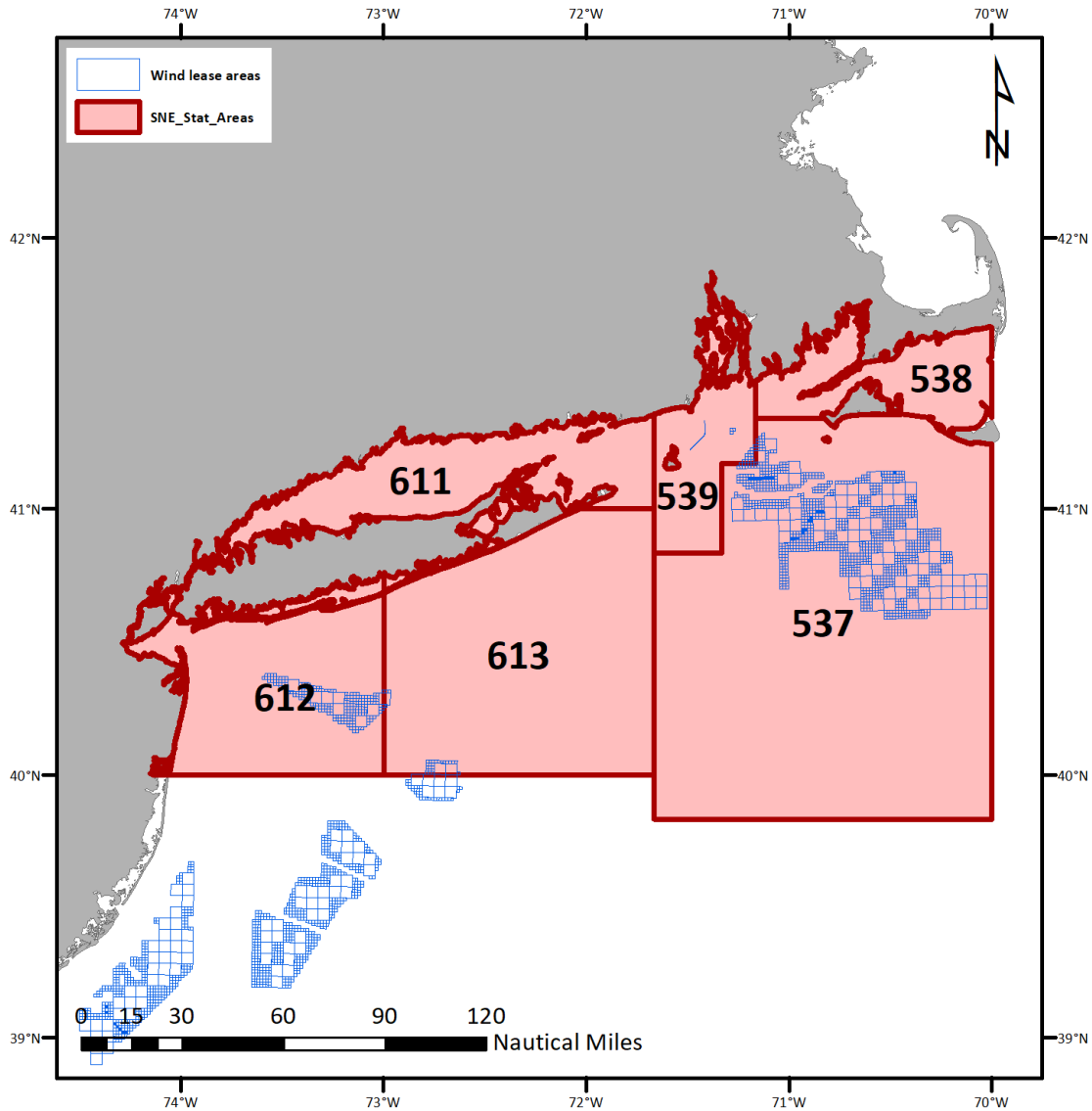
Some of the focal species for this HAPC have overfished stocks in Southern New England. These include Georges Bank Atlantic cod, ocean pout, Southern New England/Mid-Atlantic winter flounder, southern red hake, and Atlantic herring (Section 5.1). Other species are at higher levels of abundance and are important to regional fisheries, including monkfish, little skate, winter skate, and sea scallops. Even though these species are not overfished and are not experiencing overfishing, they are still important to protect from offshore development impacts. Based on NMFS Socioeconomic Impacts of Atlantic Offshore Wind Development [data](#), the most impacted species found within the SNE lease areas (in terms of landings and revenue) include skates (data are not broken down by individual skate species given the difficulty in species identification), monkfish, Atlantic herring, Atlantic cod, and sea scallop.

Conservation recommendations that would be appropriate for minimizing impacts of offshore wind development on the species that use complex habitat within SNE include scour protection, adjusting cable routes, micrositing of turbines to avoid complex habitat, etc. The HAPC designation would support the EFH consultation process in providing justification of conservation recommendations that would avoid, then minimize and mitigate impacts to complex habitat. For example, during the [South Fork EFH consultation process](#), five turbine locations were identified to have the most negative impacts on complex habitats on Cox Ledge and NMFS recommended removing these turbines from consideration. The South Fork project is already permitted so an HAPC designation cannot influence the project design, however, for other projects, the HAPC designation would help support and further strengthen the EFH consultation process in making conservation recommendations to the Bureau of Ocean Energy Management.

Table 3. Description of whether and how Alternative 4 meets one or more of the EFH Final Rule HAPC criteria.

HAPC qualifying criteria	Does alternative meet HAPC criteria?	How does the alternative meet HAPC criteria?
<i>Importance of historic and/or current ecological function</i>	Yes	Area includes spawning sites, juvenile settlement areas, and feeding areas for species with EFH in the area.
<i>Sensitivity to anthropogenic stresses</i>	Yes	Complex habitats are susceptible to conversion, sedimentation
<i>Extent of current or future development stresses</i>	Yes	Area(s) facing an on-going development-related threat from offshore wind
<i>Rarity of habitat type</i>	No	Area does not contain/specify a particular habitat feature that is considered rare, spatially or temporally very limited.

Figure 5. Alternative 4 SNE Complex Habitat HAPC designation (red polygon). The HAPC would apply where complex habitat occurs, as defined in the text. The polygon is based on the statistical areas corresponding to the SNE cod stock.



4.5 ALTERNATIVE 5 – COD SPAWNING AND COMPLEX HABITAT HAPC WITHIN WIND ENERGY AREAS (PREFERRED)

This alternative would designate the area overlapping offshore wind lease sites in Southern New England as a Habitat Area of Particular Concern. The spatial extent of the HAPC is based on the footprint of the lease areas, buffered by approximately 10 km on all sides, combined with the footprint of the Cox Ledge spawning ground developed for Alternative 2, which is based on recent evidence of cod spawning activity.

The purpose of the HAPC is to emphasize the importance of protecting complex benthic habitats and cod spawning habitats from negative impacts associated with offshore development. The HAPC designation would be applied during the Essential Fish Habitat (EFH) consultation process for specific projects using the best available scientific information on the distribution of complex habitats and cod spawning. Conservation recommendations will vary by development activity, habitat function (i.e., for spawning, juvenile settlement, sheltering, feeding), and habitat characteristics. Activities within and outside the HAPC could impact the habitat function of the HAPC.

HAPCs are, by definition, a subset of designated EFH. The HAPC area overlaps designated EFH for one or more of the following species that occupy complex habitats: Atlantic cod juveniles and adults, Atlantic herring eggs, Atlantic sea scallop eggs, juveniles, and adults, little skate juveniles and adults, monkfish juveniles and adults, ocean pout eggs, juveniles, and adults, red hake juveniles and adults, winter flounder eggs, juveniles, and adults, and winter skate juveniles and adults. In addition, the HAPC overlaps designated EFH for egg, larval, and/or adult Atlantic cod.

When applying the HAPC designation, habitat characteristics and use are evaluated on a project-specific basis. Complex habitats are defined as⁶:

- Hard bottom substrates, defined by the Coastal and Marine Ecological Classification Standard (CMECS) as Substrate Class Rock Substrate and by the four Substrate Groups: Gravels, Gravel Mixes, Gravelly, and Shell. This CMECS modifier was developed by NOAA Fisheries for their habitat mapping recommendations, including both large-grained and small-grained hard habitats.
- Hard bottom substrates with epifauna or macroalgae cover.

Evidence of cod spawning activity at a site could be based on:

- Capture of ripe, running, or spent cod during fishery independent surveys,
- Detections of acoustically tagged fish between November and April,
- Detections of cod grunts in acoustic surveys,
- Capture of cod larvae in ichthyoplankton surveys,
- Evidence of eggs in ichthyoplankton surveys (not species specific but indicative of spawning success).

Example data types that could be used when determining when and where to apply the HAPC designation during EFH consultation:

Cod spawning (this list is not exhaustive, and other suitable data sources might also be considered):

- Project-related survey data collected before, during, or after construction,
- State or federal fishery independent surveys,
- Acoustic surveys and tagging studies, or

⁶ Complex habitat also includes vegetated habitats (e.g., submerged aquatic vegetation and tidal wetlands), however, these types of habitats are not likely to occur within Alternative 5.

- Traditional survey tagging studies.

Complex habitat (this list is not exhaustive, and other suitable data sources might also be considered):

- Project-related survey data collected before, during, or after construction,
- Glacial moraines,
- Shellfish habitats, or
- Gravel sediments.

The HAPC is considered a year-round designation. Information on the timing of the spawning season is provided below as it relates to potential conservation recommendations during the EFH consultation process.

Rationale

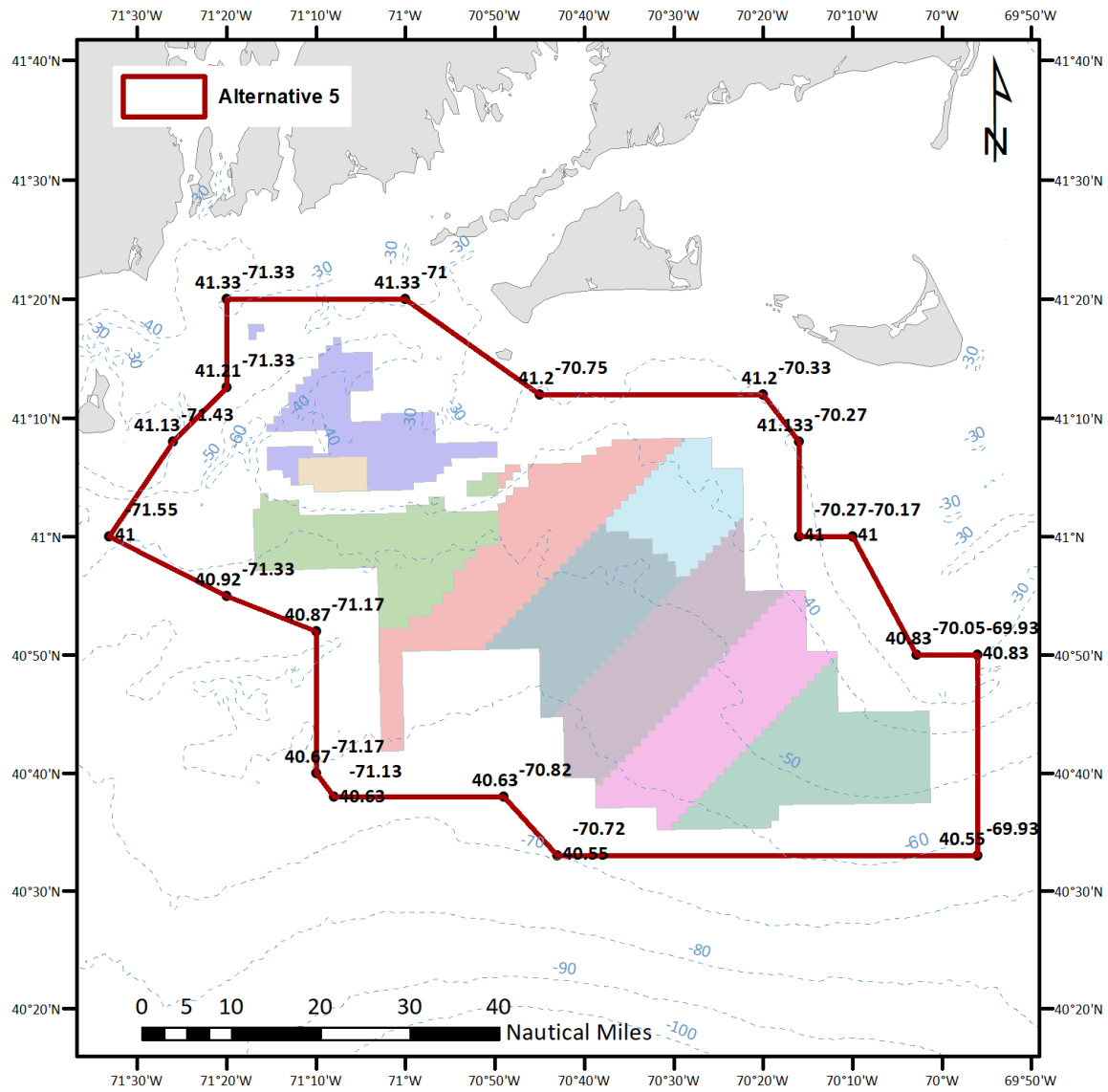
The purpose of this HAPC designation is to provide additional conservation focus on important cod spawning grounds and areas of complex habitat within and adjacent to offshore development areas. This HAPC designation meets all four EFH Final Rule HAPC criteria: importance of ecological function, sensitivity to anthropogenic stresses, extent of current and future development stresses, and rarity (Table 4). More information on offshore wind development impacts is provided in section 5.5.1, and possible mitigation measures are outlined in section 5.5.2.

Designation of this HAPC would place conservation focus on areas that are experiencing current development stresses. The designated area overlaps areas leased for renewable energy development. Some projects are already permitted, others are currently undergoing environmental review, and others are still within the site assessment phase. The alternative's spatial footprint closely aligns with the wind lease areas given these areas face differential levels of foreseeable on-going development-related threats compared to surrounding areas. The HAPC boundary includes a buffer of approximately 10 km beyond the leased areas, recognizing that some types of development activities can generate impacts at scales of tens of kilometers beyond the site of construction and operations. For example, acoustic impacts may extend kilometers from a pile driving site. The HAPC designation will be applied during EFH consultation when data indicate that cod spawning and/or complex habitats occur within or near the project footprint. An HAPC focused on these conservation objectives is consistent with the Council's Offshore Wind Energy Policy as well as prior offshore wind project specific comments provided by the Council in recent years.

Table 4. Description of whether and how Alternative 5 meets one or more of the EFH Final Rule HAPC criteria.

HAPC qualifying criteria	Does alternative meet HAPC criteria?	How does the alternative meet HAPC criteria?
<i>Importance of historic and/or current ecological function</i>	Yes	Area includes spawning sites, juvenile settlement areas, and feeding areas for species with EFH in the area. Georges Bank Atlantic cod, which is in poor stock condition (overfished, experiencing overfishing), spawns in the area. SNE cod represent a genetically distinct sub-population. The sub-population also contributes to the Georges Bank cod stock, thus, any impacts to SNE cod could also detrimentally impact the GB stock.
<i>Sensitivity to anthropogenic stresses</i>	Yes	Cod spawning activities are particularly sensitive to adverse impacts from non-fishing activities, namely from offshore wind development (construction, operations, and maintenance). Complex habitats are susceptible to conversion, sedimentation.
<i>Extent of current or future development stresses</i>	Yes	This area is facing an existing on-going development-related threat from offshore wind.
<i>Rarity of habitat type</i>	Yes (cod spawning habitats)/No (complex habitats)	Cod spawning habitats (based on acoustic environment, seafloor and water column setting) are rare with only one known grouping of active sites in Southern New England. Relative to complex habitat, these features are not considered rare (i.e., spatially or temporally very limited).

Figure 6. Alternative 5 SNE Complex Habitat and Cod Spawning HAPC designation (red outlined polygon). The HAPC would apply where complex habitat or cod spawning habitat occurs, as defined in the text.



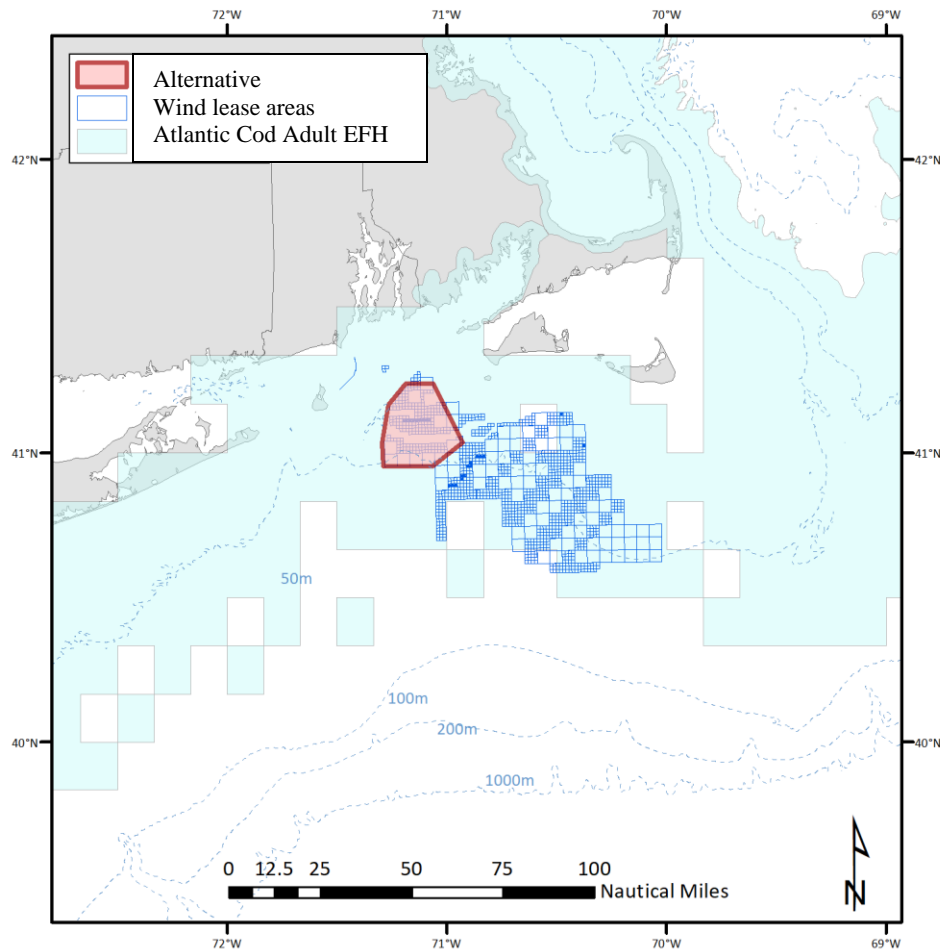
4.6 CONSIDERED AND REJECTED ALTERNATIVES

Various alternatives were discussed by the Committee or Council and not included in the final range of alternatives for analysis.

1. *Currently used cod spawning sites based on acoustic data within wind lease areas only*

This alternative would have designated the area shown in red on Figure 7 as an HAPC. This area represents the intersection of three data layers: (1) adult cod EFH, (2) spawning grounds identified using acoustic data, and (3) wind lease areas.

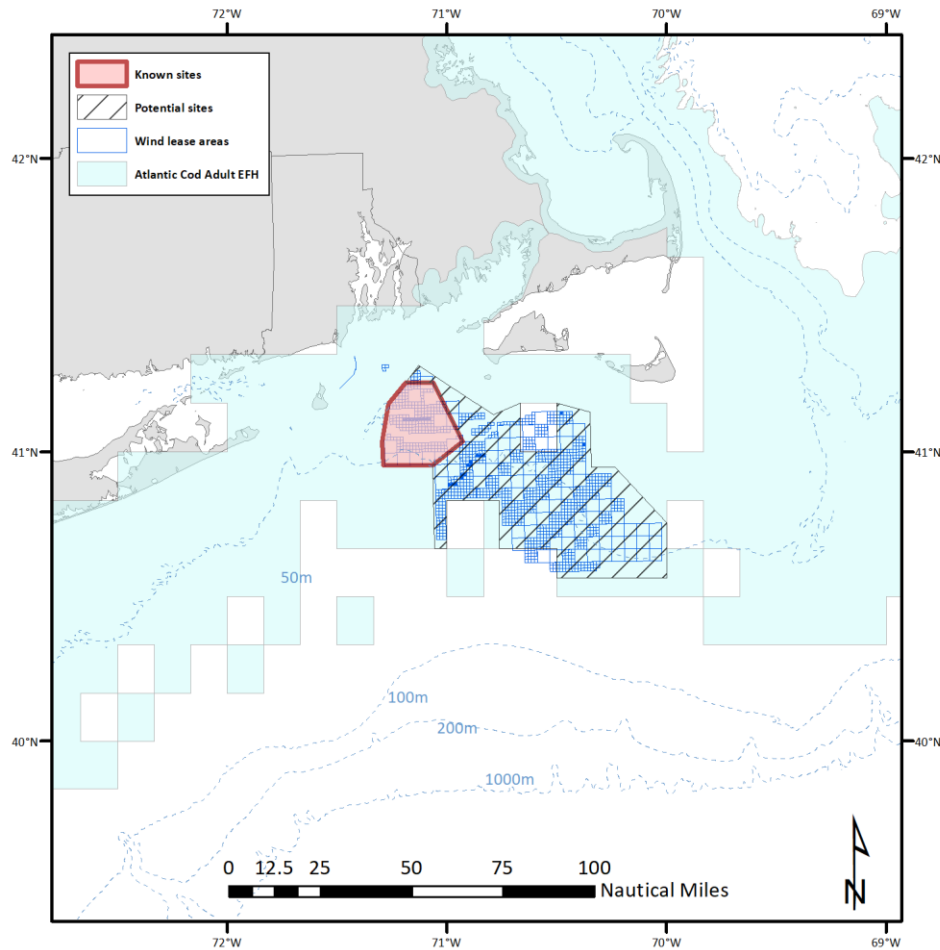
Figure 7. Cox Ledge cod spawning HAPC designation within wind lease areas only (red). Also shown: Atlantic cod adult EFH, and wind lease areas.



2. *Current and potential cod spawning sites within wind lease areas only*

This alternative would have designated the area shown in red and the area shown in black hatching on Figure 8 as an HAPC. The red area represents the intersection of three data layers: (1) adult cod EFH, (2) spawning grounds identified using acoustic data, and (3) wind lease areas. The hatched area represents the intersection of (1) adult cod EFH and (2) the lease areas.

Figure 8. Cod spawning HAPC designation for known and potential spawning grounds within wind lease areas only (red polygons and black hatching). Also shown: Atlantic cod adult EFH, and wind lease areas.



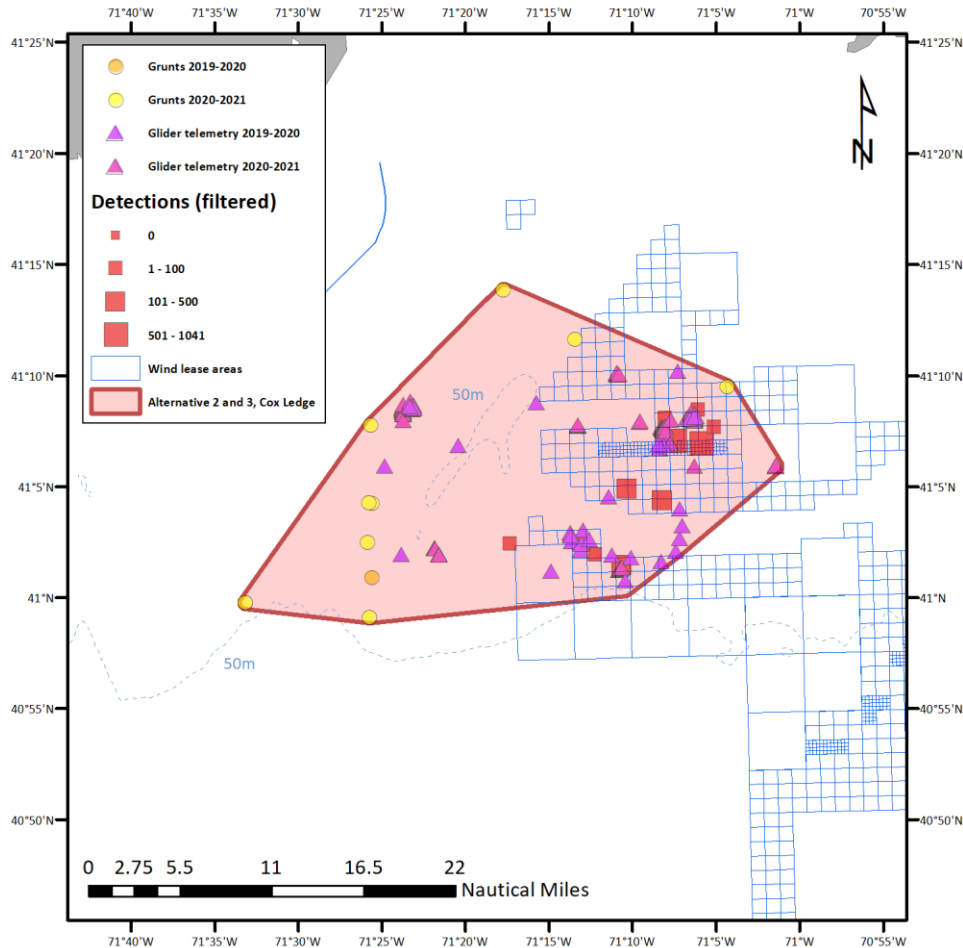
3. *Multispecies HAPC within wind lease areas only*

This alternative would have designated a HAPC for multiple species, but only in locations that overlap wind lease areas. A map for this alternative had not been developed when the Committee discussed it, the footprint of this HAPC would be the same as for the alternative shown in Figure 8, combining both the red and hatched areas.

4. Alternate configuration of Alternative 2

This alternative would have designated the area shown in red on Figure 9 as an HAPC. This area represents the intersection of two data layers: (1) adult cod EFH and (2) spawning grounds identified using acoustic data but is not confined to the boundaries of the wind lease areas.

Figure 9. Alternate configuration of Alternative 2, based on acoustic data only. Also shown: wind lease areas (blue outline).

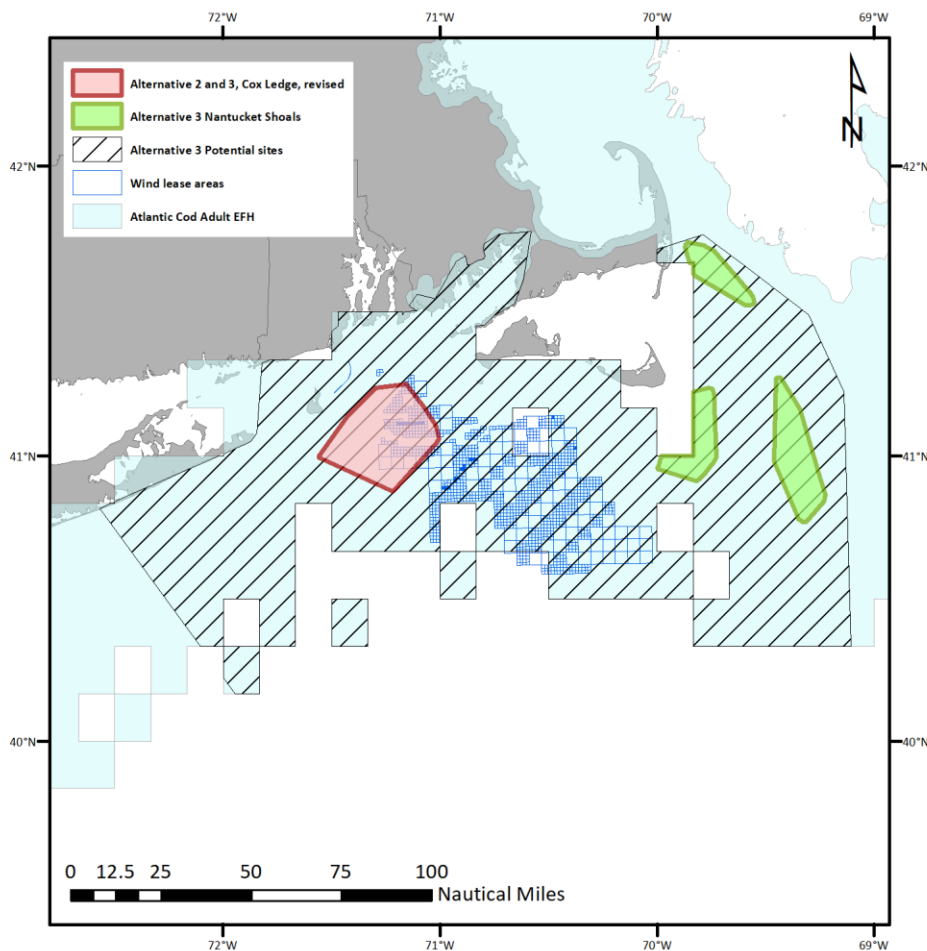


5. Alternative configuration of Alternative 3

This alternative would have designated the areas shown in red, green, and black hatching on Figure 10 as an HAPC. The red area represents the intersection of three data layers: (1) adult cod EFH and (2) spawning grounds identified using acoustic data, tagging data, and survey data. The hatched area represents the intersection of (1) adult cod EFH and (2) a polygon developed by the PDT to roughly demarcate the spatial extent of Southern New England.

This polygon included Nantucket Shoals, so historical spawning grounds from that region were highlighted as a part of this alternative. DeCelles, et al. (2017) identified consensus grounds documented by 3+ fishermen, also considering data from trawl surveys (U.S. and Canada), Canadian observer program data, ichthyoplankton sampling, and MARMAP data. Tag release data from 2001, 2006, 2009, and 2010 indicate the presence of fish in spawning condition around these consensus spawning grounds (Loehrke 2014, Cadrin, et al. in review).

Figure 10. Prior configuration of Alternative 3. Red polygon represents Cox Ledge grounds, green polygons indicate Nantucket Shoals grounds, and hatched polygon indicates the intersection of adult cod EFH and a SNE analysis area drawn by the. Also shown: Atlantic cod adult EFH (light blue shading), and wind lease areas (blue outline).



5.0 SUPPORTING INFORMATION

5.1 ESSENTIAL FISH HABITAT DESIGNATIONS

Southern New England is part of the Northeast Shelf Large Marine Ecosystem and is located at the boundary of the Virginian and Acadian regions (Cook and Auster 2007), such that both Mid-Atlantic and North-Atlantic species occur in the area.

Species that have EFH in Southern New England that are included in one or more of the HAPC designation alternatives are listed below. Given that offshore development can affect both benthic and water column habitats, all lifestages for each species are considered a focus of the HAPC designation. Little skate, winter skate, and ocean pout do not have larval stages, and egg EFH is not designated for skate species. Habitat characteristics for each of these species and lifestages are summarized in Table 5. Collectively, these designations and survey catches encompass the entirety of Southern New England, from the coastline to the edge of the continental shelf, including pelagic and benthic habitats. Substrates ranging from mud to sand to gravels and rocky habitats are included.

- Large mesh multispecies
 - Atlantic cod, Georges Bank stock (current stock identification, overlap of alternatives is with potential Southern New England stock)*
 - Ocean pout*
 - Winter flounder, Southern New England/Mid-Atlantic stock*
- Small mesh multispecies
 - Red hake, southern stock*
- Monkfish
 - Southern Fishery Management Area stock
- Skate complex
 - Little skate
 - Winter skate
- Sea scallop
- Atlantic herring*

**Indicates overfished stock*

NEFMC species with EFH in Southern New England that are not included in the HAPC designation alternatives include barndoor skate, haddock, pollock, silver hake, white hake, windowpane flounder, witch flounder, and yellowtail flounder. Species with minimal EFH in Southern New England, also not included in the HAPC designation alternatives, include Acadian redfish, American plaice, Atlantic halibut, Atlantic wolffish, offshore hake, and rosette skate. The alternatives proposed in this framework are for New England managed species and thus do not include Mid-Atlantic species that have EFH in the area that are also likely to be impacted by offshore wind development in the region (e.g., longfin squid). Some of these species might nonetheless derive conservation benefits from conservation recommendations related to protection of habitats in the HAPC.

Table 5. Habitat characteristics by species and lifestage that occur in Southern New England. MHW = mean high water.

Species	Life Stage	Depth (m)	Habitat Type and Description
Atlantic cod	Juveniles	MHW-120	Structurally complex intertidal and sub-tidal habitats, including eelgrass, mixed sand and gravel, and rocky habitats (gravel pavements, cobble, and boulder) with and without attached macroalgae and emergent epifauna
	Adults	30-160	Structurally complex sub-tidal hard bottom habitats with gravel, cobble, and boulder substrates with and without emergent epifauna and macroalgae, also sandy substrates and along deeper slopes of ledges
Atlantic herring	Eggs	5-90	Sub-tidal benthic habitats on coarse sand, pebbles, cobbles, and boulders and/or macroalgae
Atlantic sea scallop	Eggs	18-110	Inshore and offshore benthic habitats (see adults)
	Juveniles	18-110	Benthic habitats initially attached to shells, gravel, and small rocks (pebble, cobble), later free-swimming juveniles found in same habitats as adults
	Adults		Benthic habitats with sand and gravel substrates
Little skate	Juveniles	MHW-80	Intertidal and sub-tidal benthic habitats on sand and gravel, also found on mud
	Adults	MHW-100	
Monkfish	Juveniles	50-400 in the Mid-Atlantic Bight and to 1,000 on the slope	Sub-tidal benthic habitats on a variety of habitats, including hard sand, pebbles, gravel, broken shells, and soft mud, also seek shelter among rocks with attached algae
	Adults		Sub-tidal benthic habitats on hard sand, pebbles, gravel, broken shells, and soft mud, but seem to prefer soft sediments, and, like juveniles, utilize the edges of rocky areas for feeding
Ocean pout	Eggs	<100	Sub-tidal hard bottom habitats in sheltered nests, holes, or rocky crevices
	Juveniles	MHW-120	Intertidal and sub-tidal benthic habitats on a wide variety of substrates, including shells, rocks, algae, soft sediments, sand, and gravel
	Adults	20-140	Sub-tidal benthic habitats on mud and sand, particularly in association with structure forming habitat types: i.e., shells, gravel, or boulders
Red hake	Juveniles	MHW-80	Intertidal and sub-tidal soft bottom habitats, especially those that provide shelter, such as depressions in muddy substrates, eelgrass, macroalgae, shells, anemone and polychaete tubes, on artificial reefs, and in live bivalves (e.g., scallops)
	Adults	50-750 on shelf and slope, as shallow as 20 inshore	Sub-tidal benthic habitats in shell beds, on soft sediments (usually in depressions), also found on gravel and hard bottom and artificial reefs

Species	Life Stage	Depth (m)	Habitat Type and Description
Winter flounder	Eggs	0-5 south of Cape Cod	Sub-tidal estuarine and coastal benthic habitats on mud, muddy sand, sand, gravel, submerged aquatic vegetation, and macroalgae
	Juveniles	MHW - 60	Intertidal and sub-tidal benthic habitats on a variety of bottom types, such as mud, sand, rocky substrates with attached macro algae, tidal wetlands, and eelgrass; young-of-year juveniles on muddy and sandy sediments in and adjacent to eelgrass and macroalgae, in bottom debris, and in marsh creeks
	Adults	MHW - 70	Intertidal and sub-tidal benthic habitats on muddy and sandy substrates, and on hard bottom on offshore banks; for spawning adults, also see eggs
Winter skate	Juveniles	0-90	Sub-tidal benthic habitats on sand and gravel substrates, are also found on mud
	Adults	0-80	

5.2 SPECIES DISTRIBUTION, ABUNDANCE, AND HABITAT USE

There are patterns to fish habitat use across multiple spatial and temporal scales, and understanding such patterns is important for developing suitable conservation measures. Trawl survey data are often used in combination with environmental data to document mesoscale patterns (1-1,000 km) of species distribution and abundance. At the tow level, trawl data provide an integrated measure of species occurrence and relative abundance across all habitat types encountered within the tow path. At finer spatial scales, for example using hook and line gear or even with short duration tows with trawls or dredges, fish catches can be paired with a habitat map to determine fish distribution by habitat type. At microhabitat scales (centimeters to meters), video or still camera data pair observations of habitat features and the fish using those habitats in a single data source. Such fine scale data can be used to estimate how fish use habitat features, for example a silver hake sheltering in a sand wave to conserve energy while station keeping during feeding (Auster et al. 1991, 1995), or a juvenile cod camouflaging from predators amongst pebbles, cobbles or seagrasses (Grabowski et al. 2018, and references therein). Distributions of microhabitat features can be dynamic over time. This section summarizes both mesoscale and microscale habitat associations in Southern New England.

Auster et al. (1991, 1995) used a remotely operated vehicle to evaluate fish habitat use at a 55 m site in Southern New England known as The Fingers. Among other species observed at the site, multiple species that are the focus of these HAPC alternatives were documented: red hake, ocean pout, little skate, monkfish, and sea scallop. Bottom habitat was classified as flat sand, sand wave crests, shell, or biogenic depressions, and the heterogeneity and direction of species distributions by habitat type were evaluated using Chi-square tests and Pearson's product moment correlations (Table 6). The specific associations documented in this study are not fixed and may vary by area and based on fish abundance, but the point is that these diverse habitat features are occupied selectively by fishes, and maintenance of seabed feature diversity is therefore important to supporting ecological relationships.

Table 6. Microhabitat associations for HAPC focal species at The Fingers (source: Auster et al. 1991).

Species	Flat sand	Sand wave crests	Shell	Biogenic depressions
Ocean pout	-	NS -	+	NS +
Little skate	-	NS -	+	NS +
Red hake	NS -	NS +	NS +	NS +
Sea scallop	-	NS -	+	NS +

Many authors have considered the associations between juvenile cod and their habitats and estimated how these associations may contribute to stock production. Grabowski et al. (2018) conducted a meta-analysis of field and lab studies (also see summaries of cod-habitat literature in NEFMC 2016, Volume 1, Section 4.1.1 and NEFMC 2022a), concluding that recently settled cod have a strong association with structured habitats (seagrasses, pebbles, cobbles), and age-0 cod settle in these structured habitats in shallow water, moving into deeper waters over time. As part of the same study, Grabowski et al. also evaluated cod-habitat associations in the field using a combination of video, hook and line, and trawl survey data. Differences were observed between age-0, age-1, and age 2-3 fish. Based on inshore trawl surveys, they found age-0 cod were more common in shallow sand habitats, while age-1 and age-2 fish were more commonly captured in granule-pebble habitats. However, they acknowledged that complex habitats shallower than 20 m where settlement might be occurring were not trawled. In the hook and line survey, somewhat older fish were most commonly caught over cobble/ledge habitats as compared to granule-pebble habitats and were not detected over mud or sand. While their field work was conducted in mid-coast Maine, Southern New England has similar coastal habitats including nearshore pebble-cobble and seagrasses.

Langan et al. (2020) studied the distribution and abundance of larval, juvenile, and adult cod in the waters off Rhode Island, specifically Narragansett Bay, and nearshore waters north of Block Island. Larval data for Narragansett Bay showed occurrence of larvae and post larvae between January and May, suggesting spawning in late December through mid-February, with more specific date estimates dependent on assumptions about growth rates, which are uncertain as they are based on Georges Bank growth curves. Age-0 fish were observed throughout Rhode Island state waters across a range of depths, primarily caught between March and June, with most catches in April and May, also consistent with winter spawning. These age-0 cod were consistently abundant in the trawl survey and their abundance increased markedly beginning in 2002. They suggested that vertical relief, specifically macroalgae and boulders, might be used by these age-0 fish for shelter and feeding, acknowledging that Narragansett Bay is generally dominated by fine sediments. Age 1+ (combining larger juveniles and adults) were caught in Rhode Island and Block Island Sounds. These older fish are caught in smaller numbers in the RI trawl survey. More juveniles than adults were observed in this coastal survey, suggesting that adults, which appear to be increasing in abundance in Southern New England based on vessel trip report and Marine Recreational Information Program data also evaluated in the study, more typically occupy offshore banks.

Malek et al. (2014) considered an overlapping and somewhat more offshore study area as compared to Langan et al., examining Northeast Area Monitoring and Assessment Program (NEAMAP) trawl survey data combined with dedicated otter and beam trawl tows made south of Block Island and on and around Cox Ledge. They considered the broader fish and invertebrate community assemblage, not only Atlantic cod, focusing on benthic taxa (i.e., Atlantic herring were excluded from the analysis). They classified zones by depth into inshore (20-30 m), nearshore (30-40 m), and offshore (40+ m). Little skates were amongst the most abundant species in the otter trawl catches, and sea scallops were among the most abundant species in beam trawl catches. There were east-west and inshore-offshore patterns in community

composition, with abundance highest near Block Island and the greatest biomass offshore. North of Cox Ledge and south of Block Island were the areas of highest diversity. Various locations within the study area were dominated by particular species, and there were major differences in catches between spring and fall surveys, indicating spatial and temporal heterogeneity in the fish communities in the study area.

Friedland et al. (2021) examined species occurrence and production within wind energy areas along the Northeast U.S. coast. All the Massachusetts/Rhode Island and Massachusetts lease areas were examined as a single site, E1 (existing wind area 1). Among the goals of their study were to “identify the species with habitats overlapping the wind energy lease areas; characterize the relative importance of lease areas to species modeled in the study; and determine which aspects of the ecosystem were critical in shaping habitat in the lease areas.” Habitat use indices were calculated to document the occurrence of the species in a wind area relative to the species’ occurrence shelf-wide, and species were grouped into high, moderate, low, or no reliance. Also, occupancy (presence/absence) and biomass were compared across leases and with respect to lease area location and size and 0-1 indices were generated, with 0.7 used to indicate higher importance of the wind areas to the species. Of the species evaluated in this action, only little skate had occurrence indices above this threshold, but other species including Atlantic herring and winter flounder had values exceeding 0.6 in one or more seasons (Table 7). Physical and biological predictor variables were included in the species distribution models, and depth, temperature, phytoplankton, and zooplankton tended to be important predictors across multiple species (not necessarily those considered here, as the results were pooled). The authors noted that the potential for changes to hydrodynamics and thus plankton dynamics following turbine installation could influence to species occurrence and relative importance of wind areas in the future.

Table 7. Occupancy indices for HAPC focal species. Bolded text indicate >0.6 level of importance of the wind areas to the species. Source: Friedland et al. 2021.

Species	Spring Occurrence Index	Fall Occurrence Index
Atlantic cod	0.2672	0.0280
Atlantic herring	0.6476	0.1094
Atlantic sea scallop	0.1708	0.2328
Little skate	0.7346	0.7781
Monkfish	0.2509	0.2955
Ocean pout	0.5484	0.1234
Red hake	0.4009	0.4351
Winter flounder	0.6433	0.6620
Winter skate	0.5957	0.4327

5.3 SUMMARY OF TRAWL SURVEY DATA

Fishery independent survey data were used to understand the distribution and abundance of species in the Southern New England area including any changes over time. Data from four surveys were examined for the years 2000-2019:

- Northeast Fisheries Science Center bottom trawl
- Northeast Area Monitoring and Assessment Program (NEAMAP) bottom trawl
- Massachusetts Division of Marine Fisheries bottom trawl
- Rhode Island bottom trawl

Figure 11 through Figure 19 map abundance of the nine focal species for this framework relative to their EFH designations and the wind lease areas in Southern New England. Data for these maps was pulled for an analysis area running from inshore to offshore and including areas both west and east of the lease areas, with boundaries corresponding roughly to NEFSC trawl survey strata.

The two figures below the maps show abundance and biomass over time, combining data for all surveys. These figures reflect only those tows falling within the boundary of the preferred alternative (Alternative 5). Rhode Island bottom trawl survey data are collected inshore of this alternative and are thus not reflected in the figures. Abundance (Figure 20) is the total weight across all tows by year, and biomass (Figure 21) is the total weight in kg summed across all tows by year. Additional NEFMC-managed species that occur in Southern New England are also shown on these figures (silver hake, windowpane, yellowtail flounder).

Figure 11. Atlantic cod abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and adult cod EFH. Also shown are wind lease areas, SNE analysis area, and consensus cod spawning grounds.

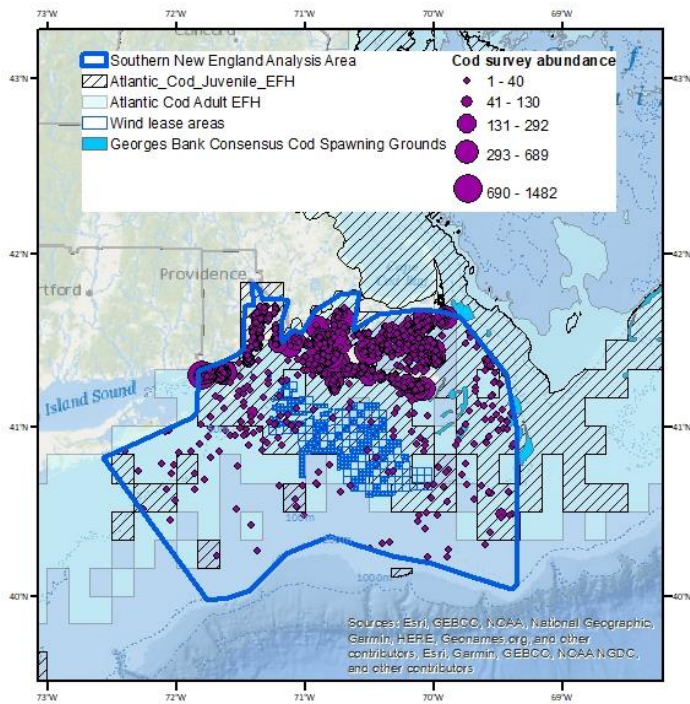


Figure 12. Atlantic herring abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile herring EFH. Also shown are wind lease areas and SNE analysis area.

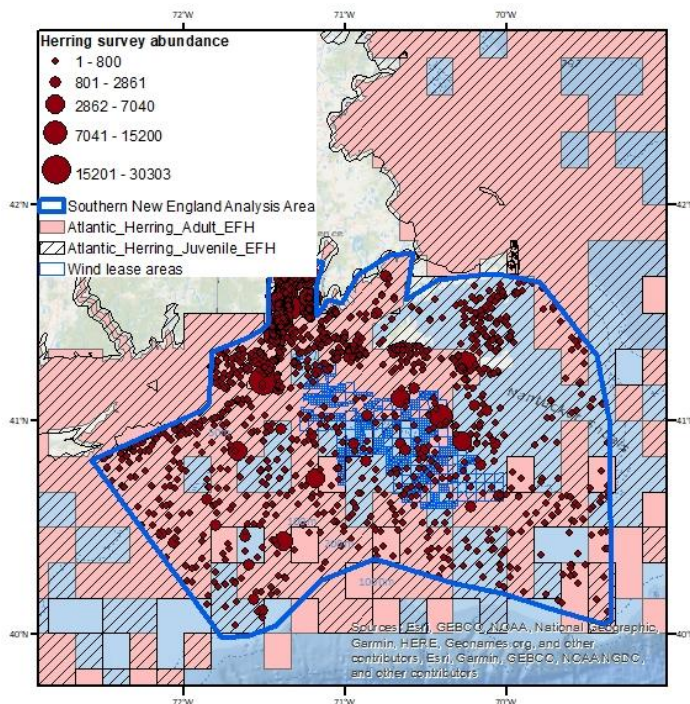


Figure 13. Atlantic sea scallop abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with all life stages EFH. Also shown are wind lease areas and SNE analysis area. Note: Removed tow with unusually high number of monkfish (48,366 monkfish).

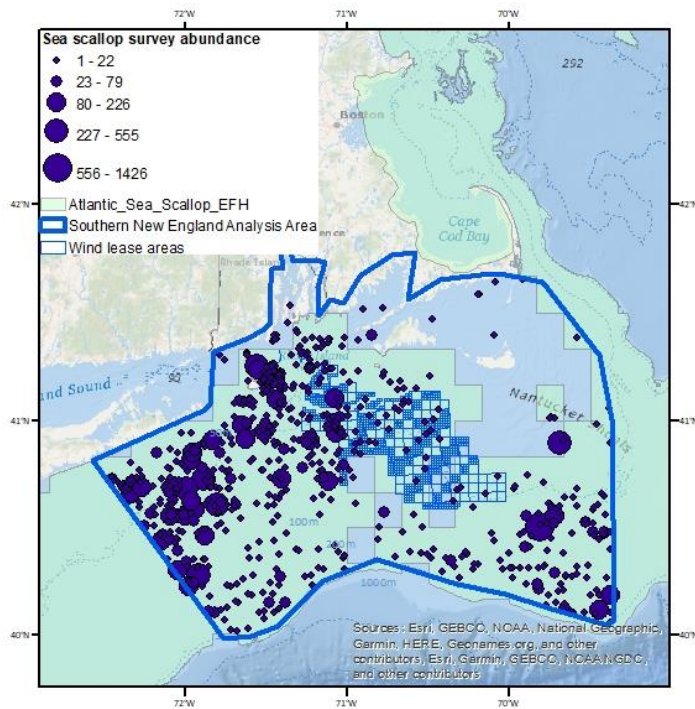


Figure 14. Little skate abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and adult little skate EFH. Also shown are wind lease areas and SNE analysis area.

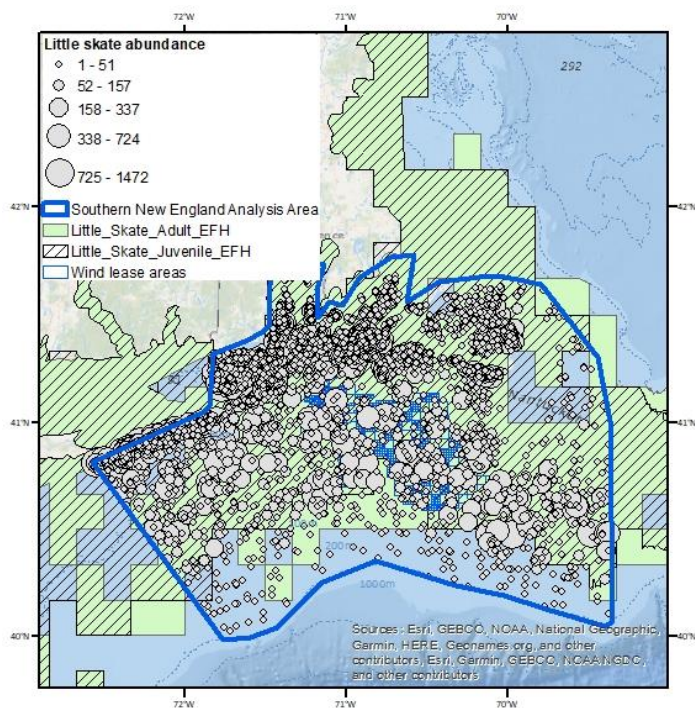


Figure 15. Monkfish abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and adult monkfish EFH. Also shown are wind lease areas and SNE analysis area.

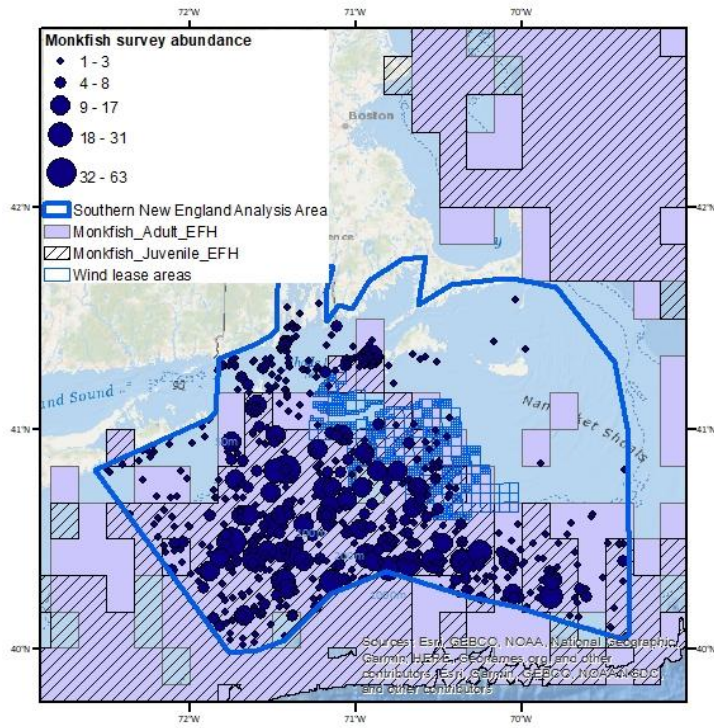


Figure 16. Ocean pout abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and adult ocean pout EFH. Also shown are wind lease areas and SNE analysis area.

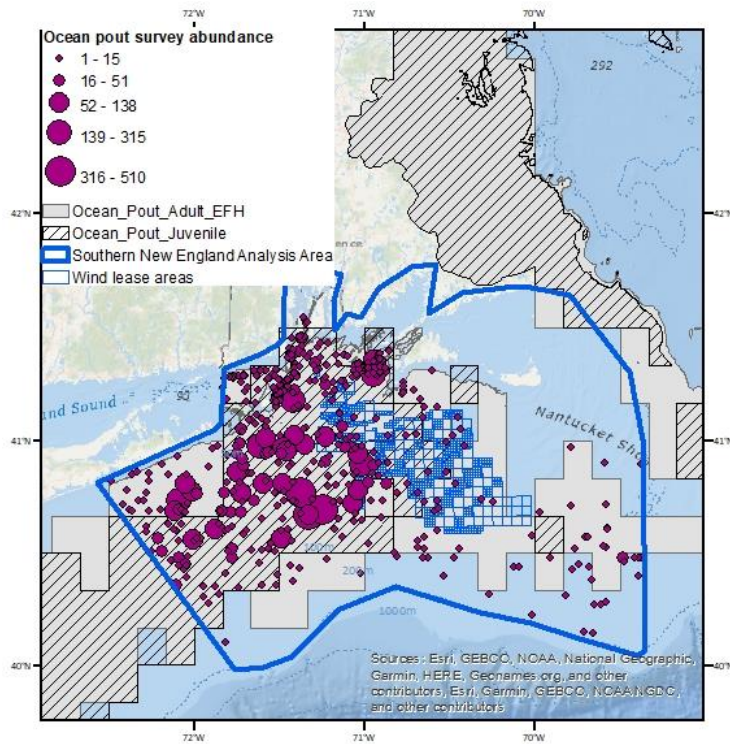


Figure 17. Red hake abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with egg/larval/juvenile and adult red hake EFH. Also shown are wind lease areas and SNE analysis area.

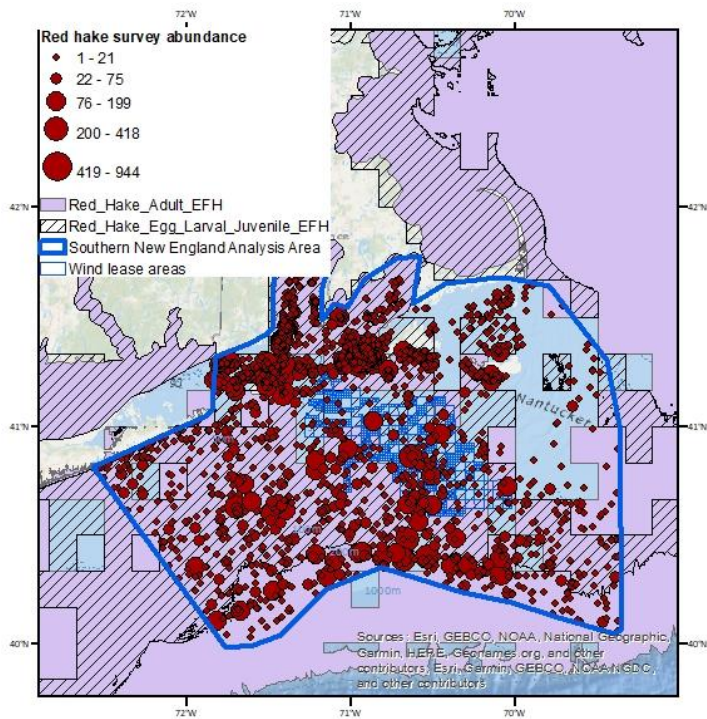


Figure 18. Winter flounder abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and larval/adult winter flounder EFH. Also shown are wind lease areas and SNE analysis area.

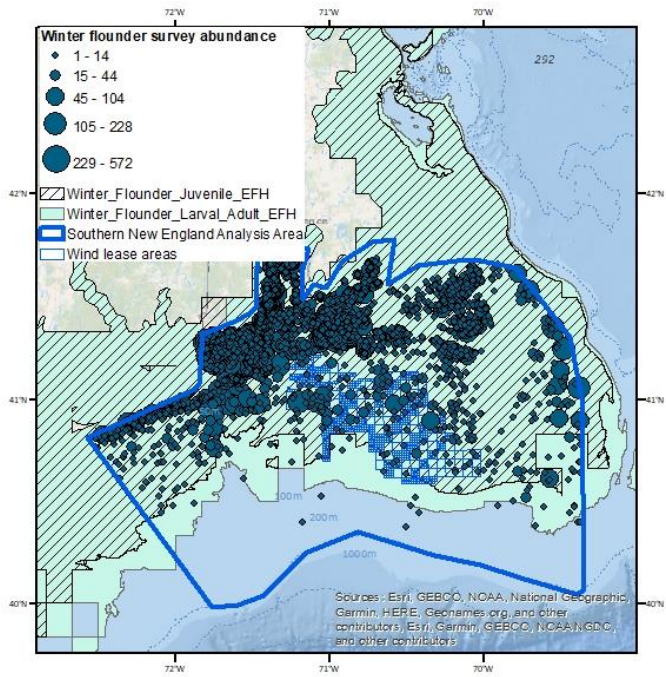


Figure 19. Winter skate abundance (MA, NEAMAP, NMFS, and RI trawl survey data, 2000-2019) with juvenile and adult winter skate EFH. Also shown are wind lease areas and SNE analysis area.

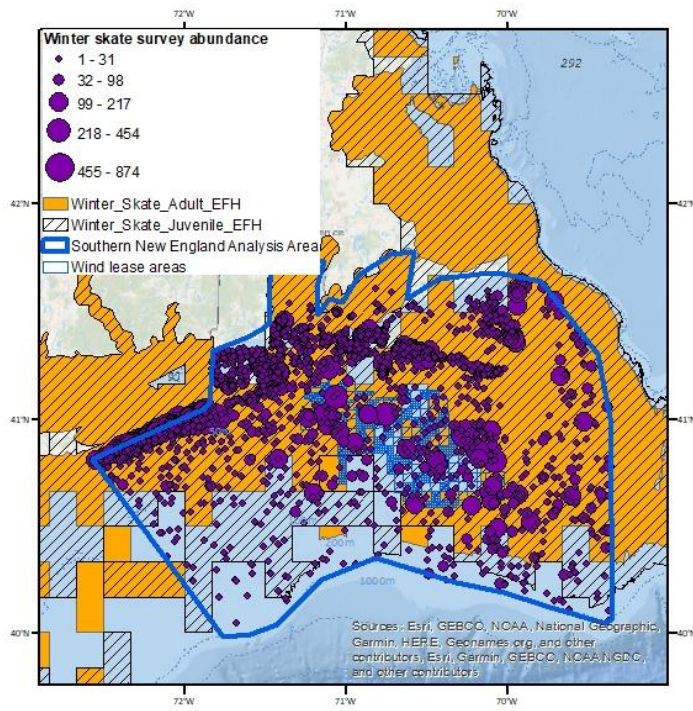


Figure 20. Species abundance over time for SNE focus species, for tows within Alternative 5 boundary only. Scale on y-axis varies by plot.

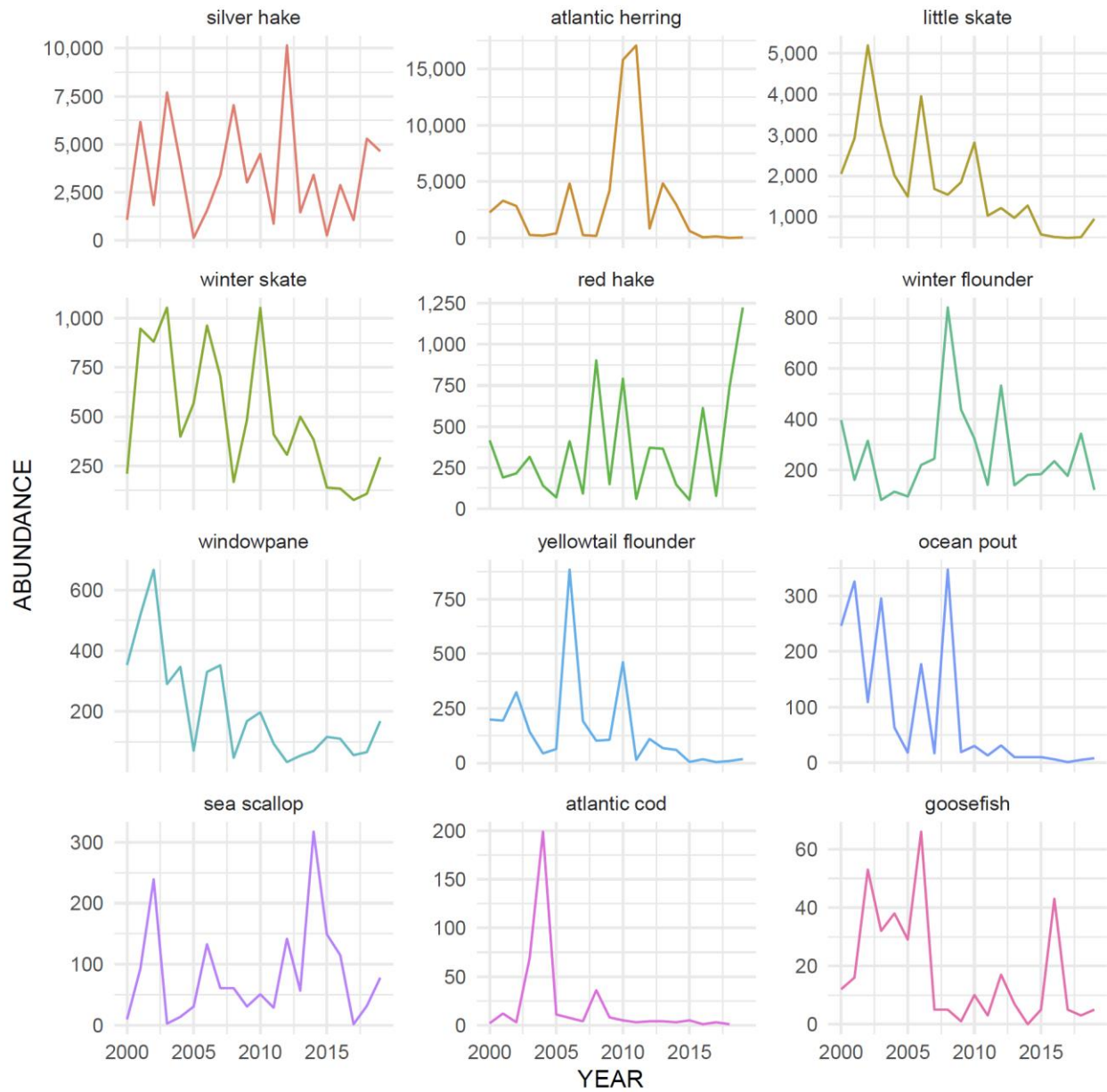
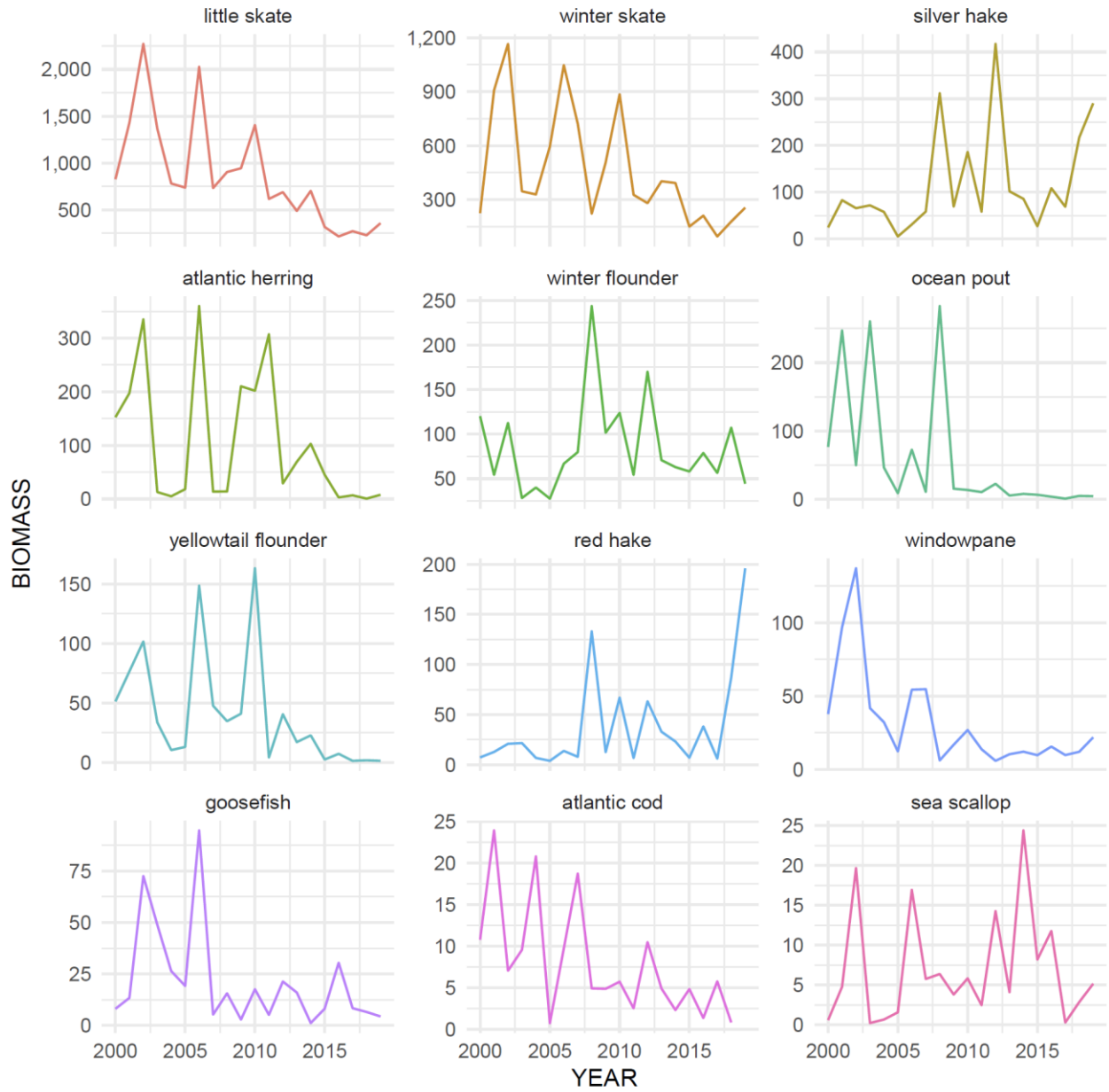


Figure 21. Biomass over time for SNE focus species, for tows within Alternative 5 boundary only. Scale on y-axis varies by plot.



5.4 COD STOCK STRUCTURE AND SPAWNING

The results of the 2020 Atlantic Cod Stock Structure Working Group and the presence of Atlantic cod spawning grounds in the Southern New England region are important factors to consider when developing a HAPC in the region.

5.4.1 Cod spawning

A spawning aggregation is defined as a group of spawning cod that persistently forms in a specific time and area. Aggregations are typically dense, localized schools. Haystack is a colloquial term used to also describe a spawning aggregation (cod spawning aggregations look like haystacks on a fish finder). A cod spawning ground is a general region that supports one or more cod spawning aggregations that form in different locations and times during the spawning season. Cod spawning activity is defined as presence of cod in spawning condition (ripe, ripe and running, or spent), evidence of mating behavior including male displays, which are accompanied by auditory signals or grunts (Zemeckis, et al. 2019), and skewed sex ratios. The presence of early life stages (eggs or larvae) is indicative of successful spawning. Important spawning sites are indicated by a higher number of fish detections across various sources of data and/or consistent use of an area across years. Surveys covering large geographic areas are unlikely to find spawning aggregations because the aggregations are very localized.

Spawning cod exhibit complex behaviors which occur in specific locations, and fish exhibit site fidelity, returning to these sites over multiple years (Zemeckis, et al. 2019). Female cod release eggs in batches over a period of one to two months; larger fish are generally more fecund (Kjesbu 1989, Klein MacPhee 2002). The time until hatching is temperature dependent (Pepin, et al. 1997, Geffen, et al. 2006) but is approximately two weeks (Madondo 2013), with a range of 10 to 40 days (MA DMF). In U.S. waters, the time between spawning release and hatch likely varies between one and three weeks (Thompson and Riley 1981). The larval period ranges from several weeks up to five months, and then fish settle to the seabed (Olsen, et al. 2010). Occurrence of adult fish in spawning condition, aggregations of adult fish, and occurrence of male grunts are indicators of spawning, while the presence of eggs and larvae are indicative of recent spawning. Because cod eggs are similar to haddock and witch flounder eggs (Klein MacPhee 2002), and the species often co-occur, larvae are more often used to identify spawning and early life stage habitats (Dean, et al. in review). Cod in Southern New England spawn between late fall and early spring.

Description and criteria of stages of Atlantic cod spawning:

O'Brien, et al. (1993) summarized Atlantic cod maturity stages as shown in Table 8. The Northeast Fisheries Science Center characterizes cod samples from the trawl surveys based on these criteria. Occurrence of ripe, ripe and running, and spent fish in the catch are used as indicators of forthcoming, active, or recently concluded spawning.

Table 8. Description of Atlantic cod maturity stages by sex.

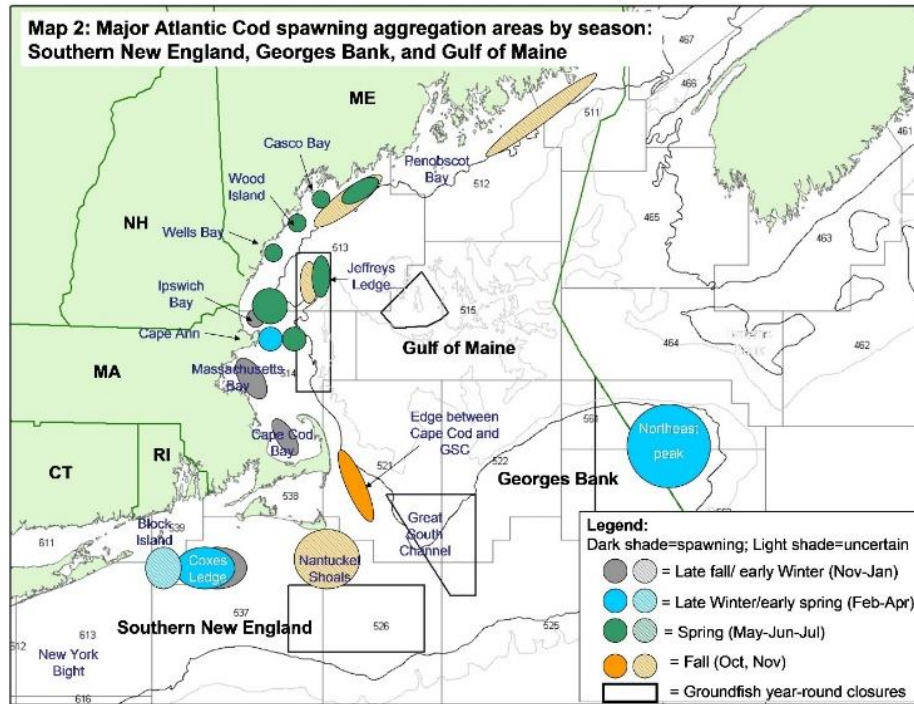
Maturity Stage	Description of maturity stage by sex	
	<i>Female</i>	<i>Male</i>
Immature	Ovary paired, tube-like, small relative to body cavity; colorless to pink jell-like tissue, no visible eggs; thin transparent outer membrane	Testes small relative to body cavity, colorless to gray and translucent. Testes narrow, lobed and elongated, resembles crimped ribbon.

Developing	Ovaries large, occupying up to 2/3 of the body cavity; blood vessels prominent when present; ovary appears granular as yellow to orange yolked eggs develop. A mix of yolked and hydrated eggs.	Testes large, grey to off-white, firm consistency with very little or no milt present.
Ripe	Ovaries large, may fill entire body cavity; hydrated eggs present. Transparent ovary wall.	Testes larger than 'Developing', chalk white, consistency mostly liquid. Milt flows easily when testes dissected.
Ripe and Running	Eggs flow from vent with little or no pressure to abdomen.	Chalk white milt flows easily from the vent with little or no pressure on abdomen. Once dissected, milt flows easily.
Spent	Ovaries flaccid, sac-like similar in size to ripe ovaries; color red to purple; ovary wall thickened, cloudy and translucent; some hydrated eggs may adhere to ovary wall.	Testes flaccid, may contain residual milt, less robust than 'Ripe'. Edges or other parts of testes starting to turn reddish to brown or grey as milt recedes.
Resting	Ovaries smaller than ripe ovaries, but larger than immature. Interior jell-like, no visible eggs.	Testes shrunken in size relative to 'Ripe'. Color is yellow, brown, or grey with little or no milt.

Southern New England-related literature on Atlantic cod spawning:

Deese (2005) summarized information about cod spawning aggregations to support a broader stock identification study over a study area that included Southern New England, Georges Bank, and the Gulf of Maine. Her report documents fall spawning sites in the Great South Channel and on Nantucket Shoals, as well as late winter and early spring spawning on and west of Cox Ledge. The areas identified are geographically broad (Figure 22). Based on communication with fishermen, spawning activity in Southern New England is highest in late winter into early spring, however, there is some variability within the region. Spawning on Cox Ledge occurs between November and April (with peak levels from November to March), spawning on Nantucket Shoals occurs largely in November, and spawning west of the Great South Channel occurs in the fall, with the area being important for juveniles in the fall and winter.

Figure 22. Major Atlantic cod spawning aggregations. Source: Deese 2005.



A subsequent study by DeCelles et. al (2016, 2017) examined data from historical reports, trawl surveys, fisheries observers, ichthyoplankton surveys, and fishermen’s ecological knowledge through surveys to identify cod spawning locations. Their study area encompassed Georges Bank and Nantucket Shoals, which are east of the alternatives considered in this action. The timing of spawning activity varied in different parts of the study area. Fishermen identified Nov-Dec as peak spawning on Nantucket Shoals, with notable spawning activity also occurring in October and from January through April. South of Nantucket shoals, cod eggs were abundant in December and January, indicating spawning had occurred in prior weeks. Spawning ended in most regions between March and May. Fishermen noted that some of the differences in spawning location and timing are likely due to separate biological units which do not match the management units. This observation is consistent with the findings of the Atlantic Cod Stock Structure Working Group (see below and section 5.4.2).

Loerke (2014) examined tagging data to examine population structure of cod in U.S. waters. The Block Island / Cox Ledge spawners were considered to be relatively sedentary, exhibiting limited movement relative to cod in other U.S. regions, and showing no difference in release and recapture locations, on average. Tag release locations from this data set are shown on Figure 23, in relation to the Cox Ledge alternative HAPC boundary (Loehrke 2014, Cadrin, et al. in review; data provided by S. Cadrin, SMAST). Information about fish in spawning condition from each of the number areas is described in Table 9.

Figure 23. Tag release locations from SMAST database. Cod in spawning condition (ripe, ripe and running, or spent) are shown in shades of blue. Other tag releases that were not in spawning condition, or that were not staged, are shown in black.

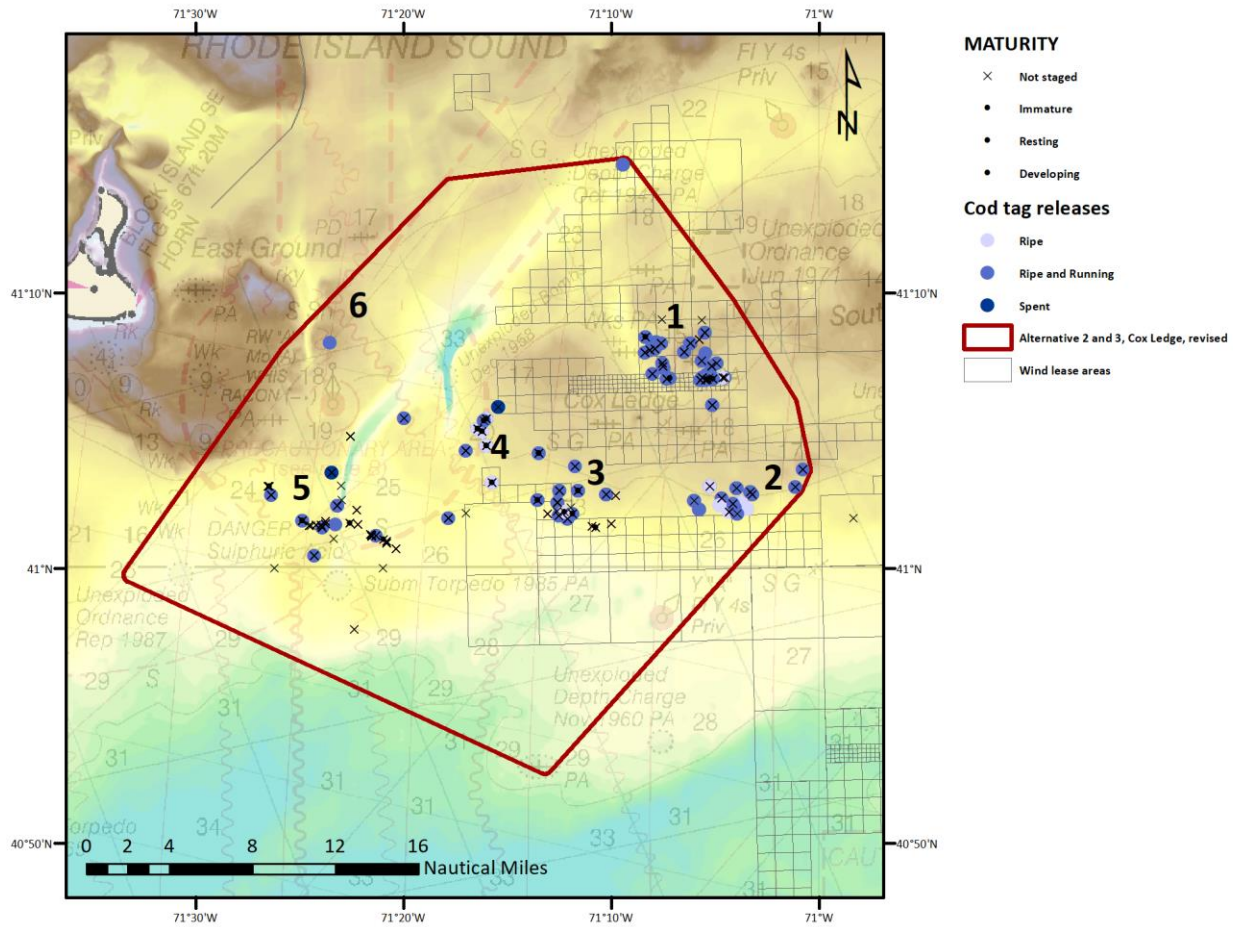


Table 9. Information about tagged cod in spawning condition, including number per site, year tagged, and reproductive stage, and sex. Observations distant from the numbered sites are not described in the table.

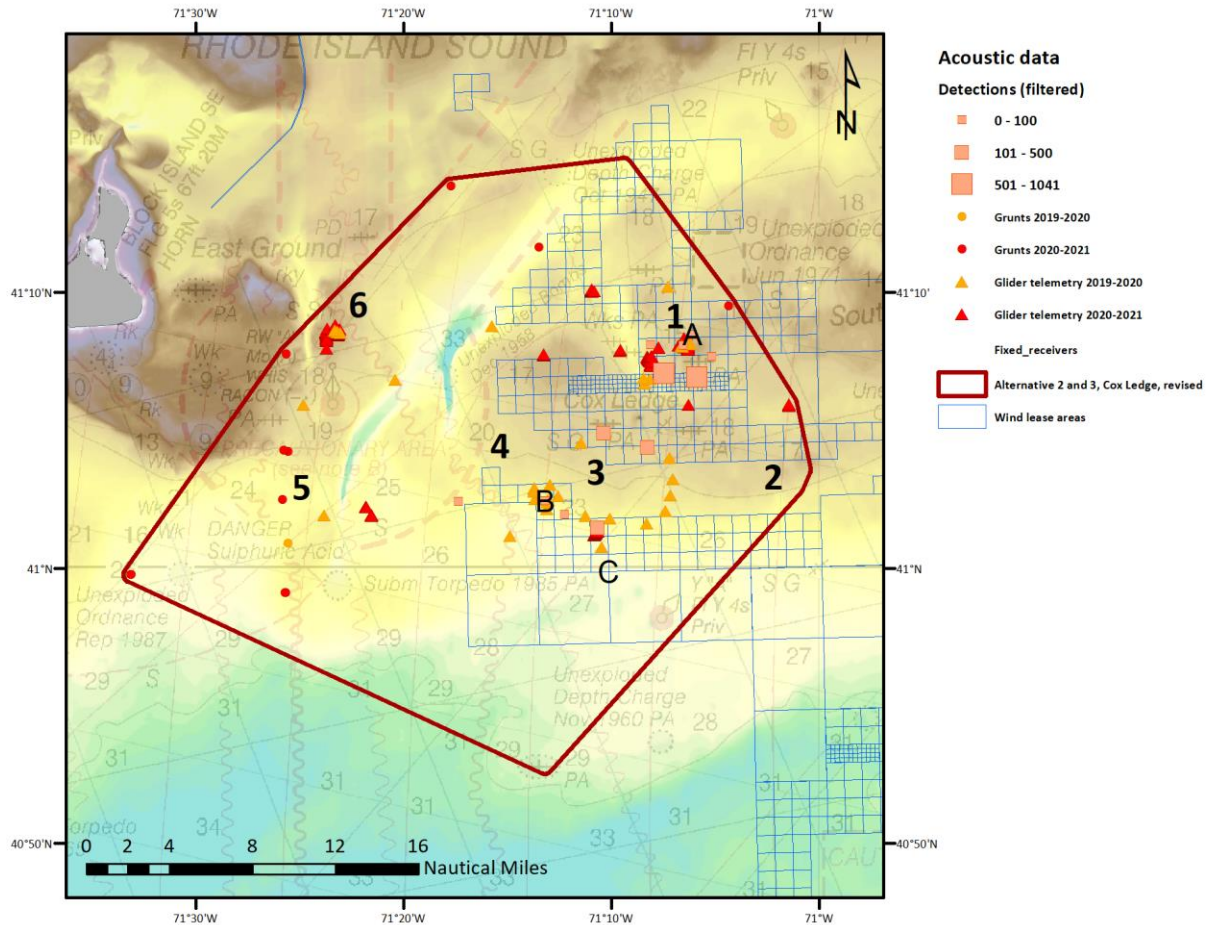
Area 1	12 male, 1 female, all ripe and running, tagged January 2007
Area 2	47 cod, mostly male, mix of ripe and ripe and running, tagged January and February 2007
Area 3	18 cod tagged January and February 2008, 5 cod tagged January and February 2009, 23 cod tagged January 2011; ripe or ripe and running; all male except one
Area 4	175 cod tagged February 2009, February and March 2010, and February 2011; mostly ripe or ripe and running, a few spent; mix of male and female but mostly male.
Area 5	13 cod tagged April 2007, March 2010, March 2011. Mostly ripe or ripe and running males, except two spent females in 2011.
Area 6	Single tagged fish in April 2007, ripe and running male.

Most recently, the Atlantic Cod Stock Structure Working Group considered spawning and early life history information for the species, comparing findings across areas and looking for connections between areas to support stock identification (Dean et al., in review). The study reviewed larval transport studies, bottom trawl data, and ichthyoplankton survey data. A summary of spawning condition data for Southern New England demonstrated that higher proportions of fish are in spawning condition in November, December, and January, but that some fish are still spawning in February and March. Cadrin et al. considered evidence from applied markers, both conventional and data storage tags, to show spatial patterning in cod populations. Using some of the same data as Loerhke (2014) they demonstrated site fidelity and low rates of movement for Southern New England cod. Their analysis of data storage tags indicated that cod in the region occupy a relatively narrow depth range, generally between 40-90 m.

VanHoeck et al. (in review) compared Atlantic cod temporal spawning dynamics within Cox Ledge and Massachusetts Bay using passive acoustic monitoring and acoustic telemetry data. They used both fixed-station and glider-based passive acoustic monitoring to evaluate the occurrence and persistence of cod spawning in space and time at a study site on and around Cox Ledge (Figure 24) and compared these results to earlier data collected in Massachusetts Bay (see Dean et al., 2014; Zemeckis et al., 2014 a,b, 2017, 2019; and Siceloff and Howell 2013). Grunts were most concentrated between November and December and activity is greatest near the new and full moons. They investigated the relationships between cod sound production (grunting) and environmental cycles (lunar, diel) and found stronger association with lunar and diel cycles in Southern New England vs. in Massachusetts Bay.

VanHoeck et al.'s analysis is part of a recent and still ongoing study that began during the 2019-2020 field season but used earlier acoustic data from 2013-2015 as the basis for the sampling area. One particular site (Site A) had repeated grunts during 2013-15 suggesting an active spawning aggregation, and this location was resampled during 2019-2020 and 2020-2021. During the 2020-2021 field season, the receiver location at Site A differed by 300 m from the earlier sampling, but only one grunt was sampled. Small numbers of grunts occurred at other sites (C and D during 2013; B in 2020). This sampling technique has a small spatial range since cod grunts are somewhat quiet and cod need to be near receiver for grunt detection. Also, cod exhibit diel movements which could affect the likelihood of their sounds being detected by the receiver. Cod that might be spawning on Nantucket Shoals were out of range of the acoustic receivers deployed for this study, however work is ongoing and additional receiver locations to the east of the previous sampling area will be used in future seasons. Detections from 2019-20 and 2020-21 are shown in Figure 24.

Figure 24. Acoustic cod detections. Site D, described in the text, is east of the mapped area and is therefore not shown. Dots and triangles represent individuals grunt or tag detections (orange and red for 2019-20 and 2020-21, respectively); squares represent multiple detections at fixed receivers, as shown.



In addition to the Massachusetts Bay and Southern New England studies, similar acoustic techniques have been used to examine spatial and temporal patterns in Atlantic cod habitat use within a wind farm in the Belgian part of the North Sea (Reubens et al. 2013). The 18 km² wind farm was located on a sandbank 27 km offshore in 18-24 meters of water, with a mix of gravity based and jacket foundations, although this sampling occurred around the gravity-based foundations. Cod were present near artificial reefs during summer and autumn, and largely absent during the winter months. Fish exhibited strong residency (meaning that they were detected repeatedly at the same sites), and they often aggregated near artificial hard substrates (meaning the telemetry data placed them in close proximity to the center of the wind artificial reef, generally within 50 m). The authors suggested that the patterns of residency and site fidelity at the wind farm, combined with the time of year cod were most prevalent at the site, indicated that they were using the area as a feeding ground, vs. a spawning ground, noting that the spawning sites for these fish are thought to be outside the Belgian portion of the North Sea.

A survey completed at and near the South Fork Wind Farm site during the winters of 2018 and 2018-2019 captured cod in spawning condition on and around Cox Ledge (Balouskus, et al. 2019, Gervelis and Carey 2020). Cod catch locations from this data set are shown on Figure 25 in relation to the Cox Ledge

alternative HAPC boundary (data were taken directly from survey reports). Information about fish in spawning condition from each of the numbered areas is described in Table 10.

Figure 25. Cod catches in the South Fork Wind Farm survey. Cod in spawning condition (ripe, ripe and running, or spent) are shown in shades of green. Other catches that were not in spawning condition, or that were not staged, are shown in black. Note the observation at the southernmost point of the HAPC boundary.

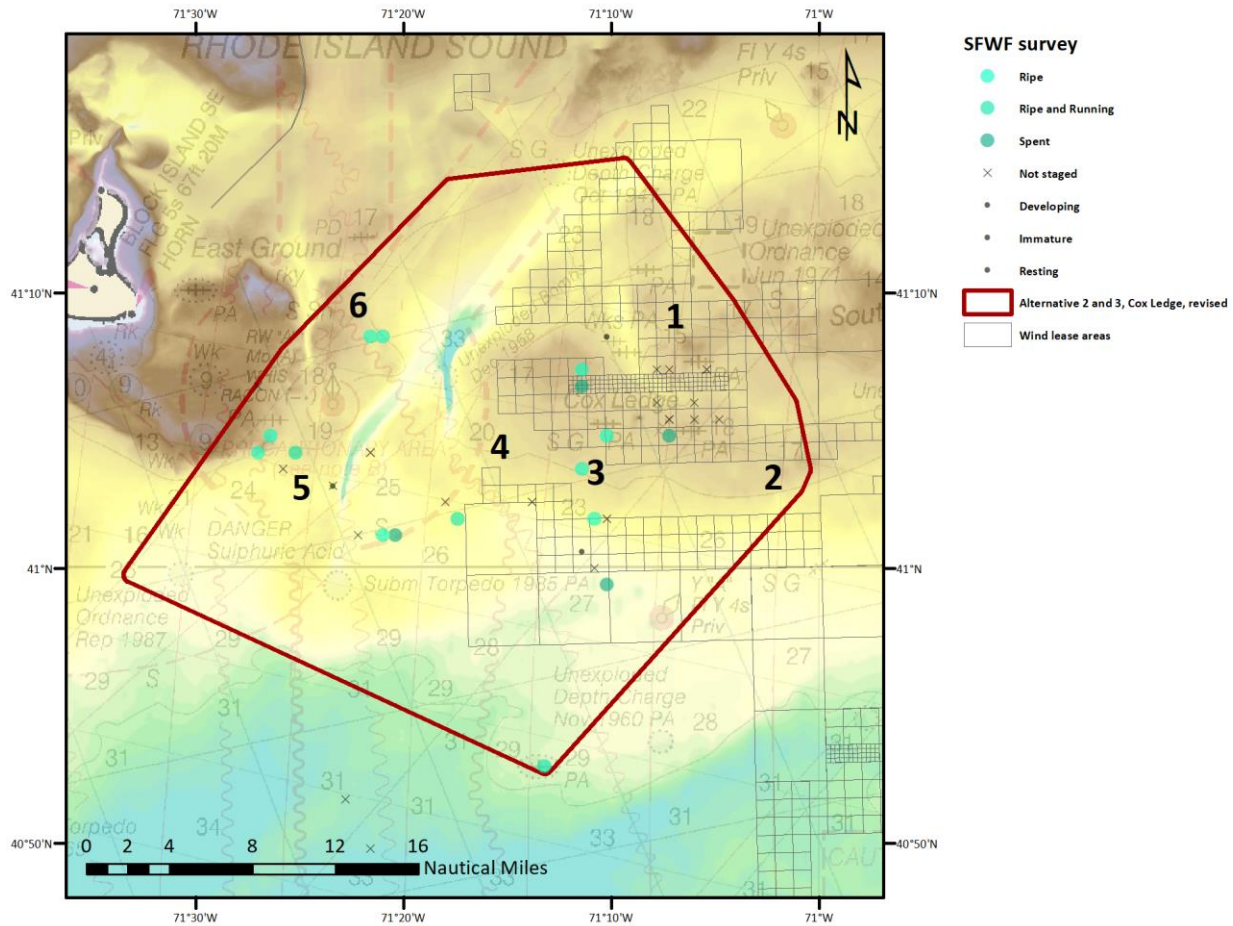


Table 10. Information about cod caught in spawning condition (n=53), including number per site, year tagged, reproductive stage, and sex. Source: South Fork Wind Farm Survey. Observations somewhat distant from the numbered sites are not described in the table, except for fish caught at the southernmost point of the HAPC boundary.

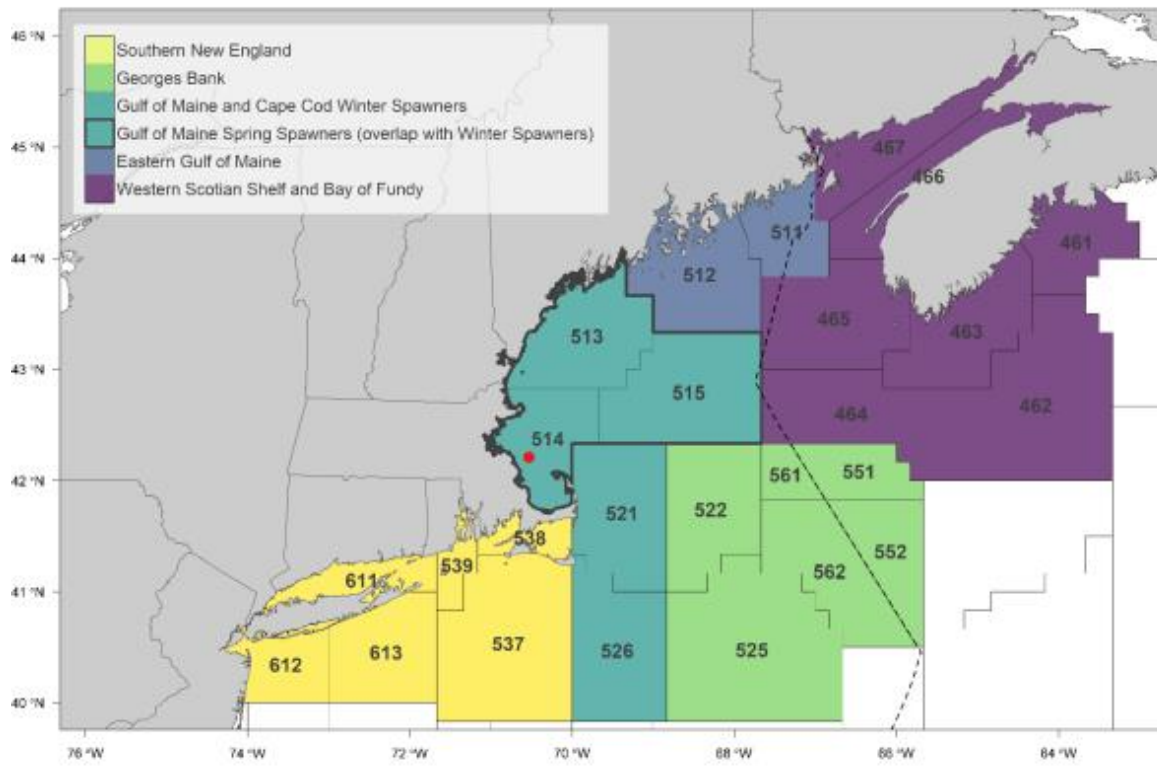
Area 1	No spawning condition fish at site.
Area 2	No spawning condition fish at site.
Area 3	21 fish, December 2018, January and March 2019. Mix of males and females, ripe, ripe and running, and spent.
Area 4	No spawning condition fish at site.
Area 5	6 fish, December 2018 and February 2019. 5 ripe or ripe and running males, 1 ripe female.
Area 6	5 fish, March 2019. Three spent females, 1 ripe female, one ripe male.
Southernmost point	8 fish, February 2019. 7 males mostly ripe and running, one spent female.

5.4.2 Cod stock structure

The 2020 Atlantic Cod Stock Structure Working Group concluded that there are five distinct biological cod stocks in U.S. and adjacent Canadian waters. To reach this conclusion, the working group studied variation in growth rates, morphology, spawning and early life history, genetic markers, and adult cod movement between regions, and considered fishermen’s ecological knowledge. The synthesis chapter, Mc Bride et al. (in review) concludes that there are mismatches between current management units, i.e., Gulf of Maine and Georges Bank, and biological stock structure.

The five populations include (1) Southern New England, (2) Georges Bank, (3) GOM and Cape Cod winter spawners combined with GOM spring spawners, (4) Eastern Gulf of Maine, and (5) Western Scotian Shelf and Bay of Fundy (Figure 26). The rationale for a separate Southern New England stock is based on multiple factors. SNE cod exhibit genetic differentiation and have localized movements and settlement. The analysis indicated major connections within Southern New England and between the region and Cape Cod, and minor connections between Southern New England and both Georges Bank and the Gulf of Maine. Southern New England is somewhat data poor compared to other regions, for example there is less information on the sources of cod larvae and juveniles (i.e., no dispersal modeling studies on the spawning and settlement areas, thus, it uncertain if the area has self-recruitment or not). In addition, additional genetic information is needed to determine stock identity.

Figure 26. Proposed biological stock structure of Atlantic cod in NAFO division 5 and adjacent division 4X. Source: Atlantic Cod Stock Structure Working Group 2020.



5.5 OFFSHORE DEVELOPMENT ACTIVITIES AND POTENTIAL IMPACTS TO HABITAT

There are nine active renewable energy leases in Southern New England, each of which could support multiple projects (Figure 27). Two projects are already permitted (Vineyard Wind I and South Fork), while the remaining are either undergoing environmental review, site assessment, or the development of construction and operations plans (Table 11 *Table 11*). The HAPC designation underscores and emphasizes the importance of specific locations and habitat features, which support NMFS' conservation recommendations for avoiding, minimizing, and mitigating impacts during the EFH consultation process. Typically, the EFH Assessment is expected in conjunction with publication of the DEIS for a project, but early consultation and coordination occurs between the agencies prior to this. Thus, the existence of the HAPC designation could influence the proposed action earlier in the process, thereby potentially lessening the magnitude of impacts that adversely affect EFH. Appendix A has additional information on the NEPA and offshore wind permitting processes. In addition, at least two projects seem to overlap the cod spawning areas including South Fork Wind and Sunrise Wind. See Figure 28 and Figure 29 below from the Construction and Operations Plans with project footprints, turbine locations, and cable locations.

Impacts associated with wind development include habitat alterations and conversion associated with installation of turbines, cables, and scour protection materials, anthropogenic acoustic disturbance that hampers fish communication, water entrainment and hydrodynamic changes, and changes to electromagnetic fields along cable corridors (see section 5.5.1). These and other issues are identified as issues of concern in the NEFMC [Offshore Wind Energy Policy](#) (December 2021). Fishery species will likely be affected by and need additional protection from these impacts. Approaches to avoiding, minimizing, and mitigating impacts are described in the Council's policy and in comment letters and in EFH consultations on individual projects. These approaches are summarized in section 5.5.2.

Table 11. Permitting status of offshore wind projects leased in Southern New England.

Project name		Overall Project Status*	Stage in NEPA process	Ability for HAPC to influence permitting process?
<i>Vineyard Wind 1</i>		Permitted	NOI published 3/30/2018 Final EFH Assessment published 4/2019 DEIS published 6/12/2020 FEIS published 3/2021 ROD published 5/10/2021 COP approved 7/15/2021	No
<i>South Fork Wind</i>		Permitted	NOI published 10/19/2018 DEIS published 1/4/2021 Final EFH Assessment (revised) published 4/7/2021 FEIS published 8/16/2021 ROD published 11/24/2021 COP approved 1/18/2022	No
<i>Revolution Wind</i>		Not permitted, in progress	NOI published 4/30/2021 DEIS expected 7/1/2022 Final EFH Assessment TBD FEIS expected 3/24/2023 ROD/COP expected 5/1/2023	Yes, during EFH consultation process before EFH Assessment is finalized
<i>New England Wind (formerly Vineyard Wind South)</i>	<i>Phase 1: Park City Wind</i>	Not permitted, in progress	NOI published 6/30/2021 DEIS expected 8/26/2022 FEIS expected 6/23/2023 ROD expected 7/23/2023	Yes, before EFH Assessment is finalized
	<i>Phase 2: Commonwealth Wind</i>			
<i>Sunrise Wind</i>		Not permitted, in progress	NOI published 9/3/2021 DEIS, EFH Assessment, FEIS TBD ROD/COP expected 11/21/2023	Yes, before EFH Assessment is finalized
<i>Mayflower Wind Energy</i>		Not permitted, in progress	NOI published 11/1/2021 COP published 10/2021 DEIS expected in 2022 NOA expected 1/2023 FEIS expected 9/2023 ROD expected end of 2023	Yes, before EFH Assessment is finalized
<i>Beacon Wind</i>		Not permitted, in progress	SAP approved 9/24/2021 COP TBD	Yes, before EFH Assessment is finalized
<i>Liberty Wind (lease 522, formerly Vineyard Wind)</i>		Planned	Lease secured in 2019 SAP TBD	Yes, before EFH Assessment is finalized
<i>Bay State Wind</i>		Planned	Lease secured in 2015 SAP TBD	Yes, before EFH Assessment is finalized

* Permitting status as of June 2, 2022.

Figure 27. Southern New England wind lease areas, and cable routes for permitted projects (South Fork, brown, Vineyard Wind 1, green). Leases from left to right are Revolution Wind, South Fork Wind, Sunrise Wind, Bay State Wind, Vineyard 2, Vineyard 1, Equinor, Shell, Vineyard Wind.

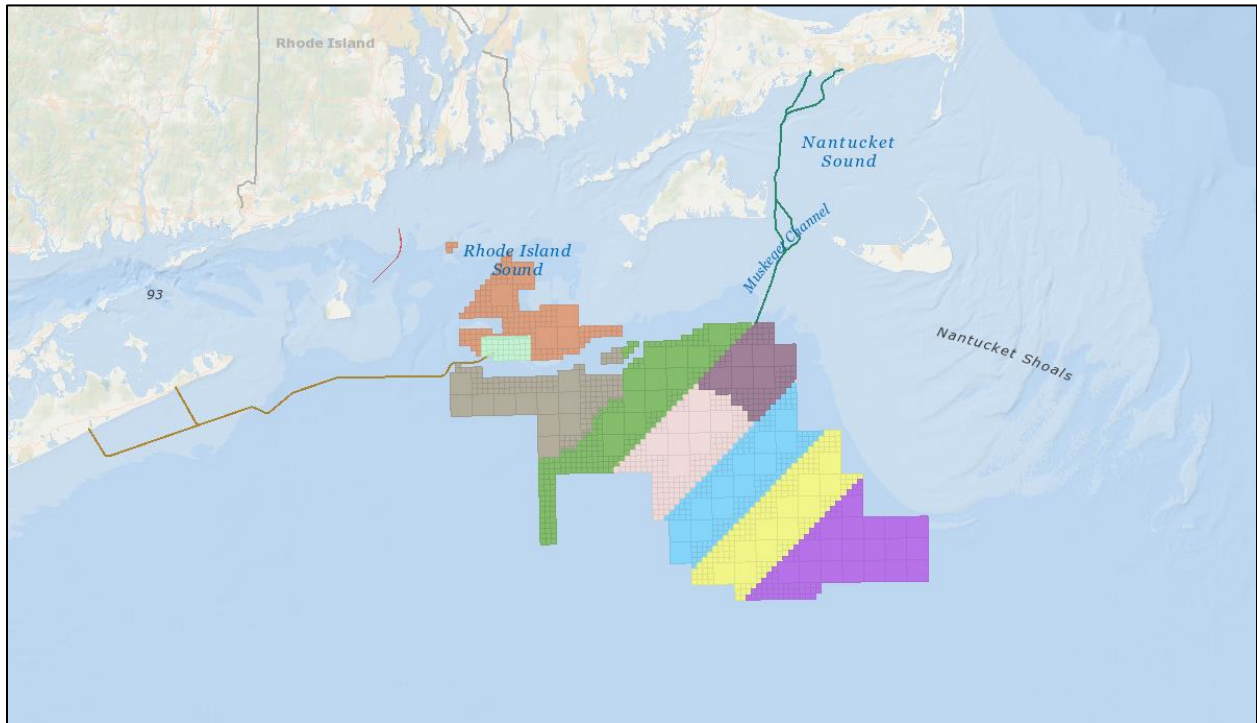


Figure 28. South Fork Wind Farm work area, turbine locations, and inter array cable routes. From Construction and Operations Plan.

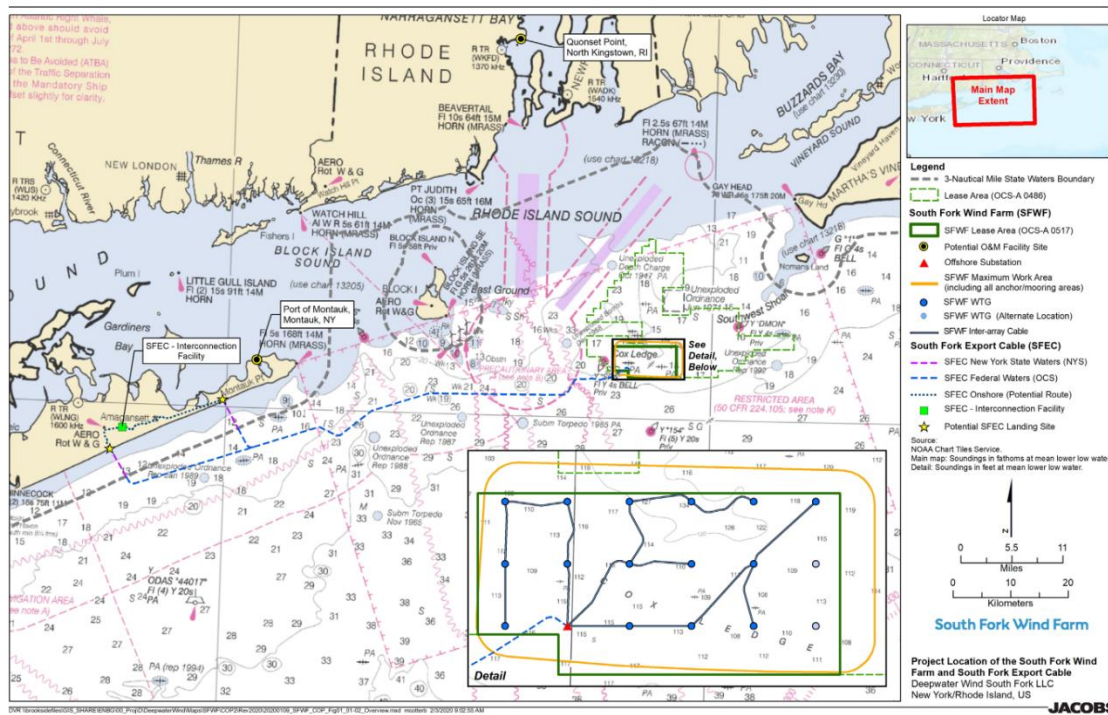
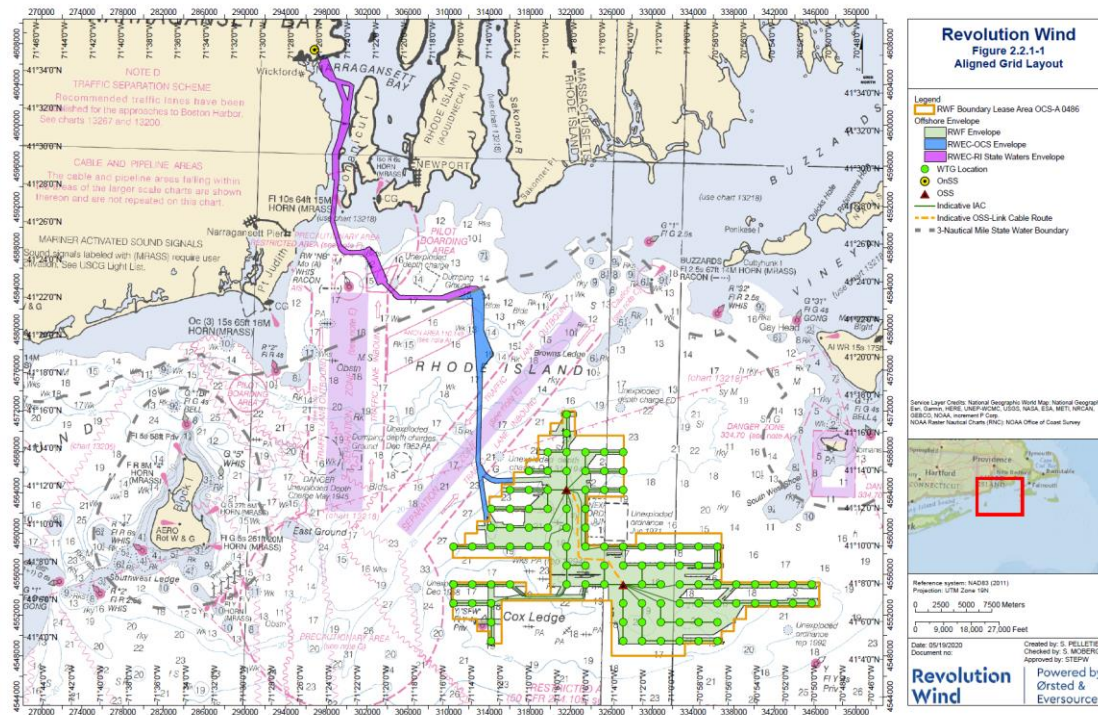


Figure ES-1. Project Location of the SFWF and SFEC
 Depiction of the SFWF and SFEC, shown on a nautical chart.

Figure 29. Revolution Wind potential turbine locations and inter array cable routes. From Construction and Operations Plan.



5.5.1 Impact producing factors from offshore development

This section is a selected literature review summarizing the impacts of offshore development on fishes and habitats, however the literature on this topic is extensive and growing rapidly, and the information included in this section is not exhaustive. Additional impacts of concern are noted within the NEFMC Offshore Wind Energy [Policy](#), in NEFMC/MAFMC and NOAA Fisheries comment letters to BOEM on individual offshore wind projects, and within COPs and NEPA documents prepared for individual offshore development projects, and several other additional resources.

Acoustics

Noise can impact fish physiology or behavior, and effects may be cumulative over time due to multiple intermittent and continuous sound sources. This summary focuses on behavioral effects of noise on fishes. Noise generated from offshore development is thought to disrupt the ability of fish to forage efficiently, evade predators, reproduce, adapt, and shoal cohesively (Herbert-Read, et al. 2017, Mooney, et al. 2020; Siddagangaiah, et al. 2021; Stöber and Thomsen 2021). Generally, noise that is viewed as a threat could alter an individual's behavior within a group, especially if the noise masks auditory communication, causes distraction, and induces stress, thereby reducing overall fitness (Herbert-Read, et al. 2017, Mooney, et al. 2020). Installation of foundations through pile-driving and dredging is one of the noisiest construction activities (Mooney, et al. 2020; Siddagangaiah, et al. 2021). One study found that fish recovered more quickly once continuous noise stops while intermittent, irregular, and intense noise is thought to be more disruptive (Neo, et al. 2014), causing physical injury (Mooney, et al. 2020). Based on available data, mid-frequency active sonar (which is typically used to inform likely effects of other seismic source data) is not known to change the behavior of adult herring (Doksæter, et al. 2012). Construction noise frequency range overlaps with the range of several species across multiple habitat types including cod, salmon, black sea bass, flatfish, and squid (Chapman and Sand, 1974; Hawkins and

Chapman, 1975; Mooney et al., 2010; Popper et al., 2019). Cod, haddock, and other species' communications are also likely disrupted and masked by ship operation noise (Stanley, et al. 2017). The intensity and duration of noise attenuated through the water vary by the development stage (seismic survey, construction, operation, decommissioning) and the size of the turbines, thus, impacts to fish and invertebrates vary accordingly. **Additional research is needed** to evaluate the effects of offshore wind noise on fish and invertebrate species. Because few wind farms have been built in the U.S. and none have turbines of the proposed size for recently permitted projects and projects currently under review (12 MW and up), the expected and specific impacts by taxa largely remain conjecture based on data available in other contexts (Popper and Hawkins 2019; Popper et al. 2020; Mooney, et al. 2020; Stöber and Thomsen 2021). For example, van der Knaap (2022) found that resident Atlantic cod in the North Sea did not relocate out of the study area during pile driving associated with construction of a new wind farm (adjacent to an existing wind farm). Cod moved significantly closer to the closest scour-bed of an existing turbine during pile driving, perhaps for a hiding place, and also moved away from the sound source. Pile driving and seismic surveys had different effects on cod within the same wind farm study area, most likely due to the differences in sound exposure between the two disturbances/activities (van der Knaap, et al. 2021). It is unclear if, and to what extent, these impacts are expected during offshore wind development in Southern New England.

Because cod are shown to have high spawning site fidelity, if NEFMC delineates a separate Southern New England stock, there could be population level effects in the reasonably foreseeable future from impact pile driving noise that can result in injury up to 8.4 mi for large fish and 10.1 mi for small fish (South Fork Construction and Operations Plan). This magnitude of sound attenuation impact from wind farm construction noise is consistent with the >40,000-foot impact area stated in the South Fork EFH Assessment and the 8-mile impact radius from each monopile foundation stated in the South Fork DEIS.

Habitat conversion and losses

Construction, operations, and decommissioning of offshore wind development are likely to cause physical habitat conversions from **soft-bottom benthic habitat to hard-bottom habitat** in the immediate vicinity of the structures (e.g., steel piles, rock scour protection, etc.), directly impacting a variety of fishery species. Disturbance, alteration, and loss of benthic habitat (both value and function) are anticipated impacts from cable and turbine installation. Turbines and substation foundations create substrates for **fouling organisms** and artificial reefs which replace existing habitat types and could displace other species which prefer soft sediments (e.g., flatfish, bivalves) (Wilhelmsson, et al. 2006; Reubens, et al. 2013). Specific to Southern New England, loss of complex habitat through cable corridor and/or turbine installation would have **detrimental effects on cod spawning and survival of juvenile cod, for example (Peer Review of the Atlantic Cod Stock Structure Working Group Report 2020)**. **Other species that rely on complex habitat (e.g., American lobster, juvenile Atlantic cod, longfin squid; Carey, et al. 2020) for shelter especially during their early life history, for refuge from water flow and predation, and for feeding opportunities will also be impacted from loss of complex habitat.**

Reef effects

Short and long-term impacts of wind facility operations are likely to cause a “reef effect”, creating artificial reefs throughout the project area, attracting certain fishery species (Wilhelmsson, et al. 2006; Reubens, et al. 2013; Love, et al. 2016). The benefits of this effect will vary by target species. The negligible to minor beneficial impact from the increased production is species dependent as it is likely that only certain species will colonize on or aggregate near the reef (Langhamer 2012), and these may or may not be the species of greatest value to anglers. In Southern New England, black sea bass is an example of a species that is likely to colonize on or aggregate near the reef (NOAA 2020).

Hydrodynamic effects

Through modeling work, the physical presence of turbines has been estimated to alter the near-surface and near-bottom temperatures, and thus, habitat conditions for marine species, as well as juvenile transport of commercially important species like sea scallops (Chen, et al. 2021). Vertical mixing is projected to increase within wind farms along with local upwelling because of the interactions of foundations with tidal and wind-driven currents (Floeter, et al. 2017). It is unclear whether the degree of hydrodynamic change is a result of the presence of turbine foundations or natural variability. Further research is also needed to understand the aggregate effects of more than one wind farm (Floeter, et al. 2017). Based on other ongoing research efforts, an individual project has the potential to materially affect oceanographic and hydrodynamic conditions, with an individual project also contributing to cumulative effects from development of several wind farms on a regional scale (Chen, et al. 2021). Potential impacts to the Mid-Atlantic Cold Pool and resulting impacts on fishery species are of concern as well. This is an area of ongoing research (Kohut and Brodie 2020).

Water entrainment

Water entrainment occurs during jet plowing as cables are installed and also occurs on an ongoing basis at the AC/DC (alternating current/direct current) conversion station for the purposes of cooling the DC cable. **Entrainment at the conversion station could have substantial and sustained impacts on important forage fish species like sand lance and on ichthyoplankton and zooplankton, including fish eggs and larval stage fish and invertebrates (Wenger, et al. 2017)**. In Southern New England, cooling systems are being considered for projects that have AC/DC conversion stations, namely Sunrise Wind and Revolution Wind. Direct current cables can carry more power with fewer losses and thus tend to be used over longer transmission distances of roughly 100 km or more (Tetra Tech 2021). Effects included but are not limited to the loss of zooplankton and fish eggs/larvae due to water entrainment and associated temperature differentials from discharge waters, which may impact both the entrained species and their predators **(VHB Revolution Wind COP Volume 1 2021; Stantec Sunrise Wind COP 2021)**.

Electromagnetic fields (EMF)

Export and inter-array cables are likely to cause electromagnetic field emissions which may alter fishery species' distributions, migrations, behaviors, and predator-prey relationships for some demersal and pelagic fish and shellfish species (Greenfin Studios 2017). Elasmobranchs, namely skates and spiny dogfish, which are present in Southern New England and managed by NEFMC (and jointly with MAFMC for spiny dogfish), exhibited a strong behavioral response to EMF in a field study conducted by University of Rhode Island and BOEM (Hutchinson, et al. 2018).

5.5.2 Mitigation approaches for offshore wind development impacts

A select list of approaches to mitigate the impacts of offshore wind development is provided below. Note the mitigation measures included in this section are not exhaustive. Additional approaches are included within the NEFMC Offshore Wind Energy Policy, NEFMC/MAFMC and NOAA Fisheries comment letters to BOEM on individual offshore wind projects, individual offshore development project documents, and several other additional resources.

- **Avoid construction in spawning areas** – existence of a permanent structure in a spawning area would impact that area and could make it unsuitable for spawning.
- Establish a monitoring plan for species of concern with aggregations that are indicative of spawning behavior during planning, construction, and operations. A monitoring plan should also be in place during boulder relocation, pre-cut trenching, cable-crossing installation, cable lay and burial and foundation site prep/scour protection.
 - o Include detection thresholds of spawning aggregations with adaptive management measures to restrict development activities if needed.
- Develop and implement a Passive Acoustic Monitoring plan (Van Parijs, et al. 2021) to detect species within wind energy areas.
 - o The plan should include proposed equipment, deployment locations, detection review methodology and other procedures. This should be implemented in coordination with other acoustic monitoring efforts within the lease and wind energy area areas and other ocean-user stakeholders.
- **Time of year restrictions** on construction could be used to limit noise which could mask cod and other soniferous species' communication.
- Use noise dampening technology during construction and operations of offshore wind development.
- **Transmission cables, wind turbines, electrical services platforms, or other structures should not be placed in areas with complex habitats.**
- Evaluate the difference in impacts between closed and open loop systems to mitigate water entrainment impacts.
- Export and inter-array cables should be buried to an **adequate depth** to minimize effects of heat and electromagnetic field emissions.

5.6 FISHERY DESCRIPTIONS

5.6.1 Northeast multispecies – large mesh

The Northeast Multispecies (Groundfish) Fishery Management Plan (FMP) specifies the management measures for thirteen groundfish species, both target (cod, haddock, yellowtail flounder, pollock, American plaice, witch flounder, white hake, winter flounder, redfish and Atlantic halibut) and non-target (windowpane flounder, ocean pout, and Atlantic wolffish) species off the New England and Mid-Atlantic coasts. Some of these species (cod, haddock, yellowtail flounder, winter flounder, and windowpane flounder) are further sub-divided into individual stocks that are attributed to different geographic areas. Two stocks, Georges Bank (GB) cod and GB haddock, also have management units. The FMP therefore consists of 20 stocks and 2 management units. Commercial and recreational fisheries catch these species.

The New England Fishery Management Council (NEFMC or Council) makes proposals, through various management actions, to the National Marine Fisheries Service (NMFS) on the management of the fishery. As such, the FMP has been updated through a series of amendments and framework adjustments. Amendment 16 (A16), which became effective in 2010, adopted a broad suite of management measures to achieve the fishing mortality targets necessary to rebuild overfished stocks and meet other requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Amendment 16 greatly expanded the sector management program and adopted a process for setting annual catch limits (ACLs) that requires catch levels to be set in biennial specifications packages. Amendment 17, effective in 2011, allows for NOAA-sponsored state-operated permit banks to function within the structure of A16. Amendment 18, effective in 2017, addresses fleet diversity and accumulation limits. Seventeen framework adjustments have updated the measures in A16. Amendment 23, which would improve monitoring in the commercial groundfish fishery, is under review by NMFS. NMFS announced a target at-sea monitoring coverage rate of 99% for all sector vessels for fishing year 2022 (May 1, 2022- April 30, 2023). Framework 63, specifications and management measures, is also under review by NMFS.

A16 made major changes to the FMP. The management action adopted a system of ACLs and accountability measures (AMs) that are designed to ensure catches remain below desired targets for each stock in the management complex. AMs are management controls to prevent ACLs from being exceeded and to correct or mitigate overages of the ACL if they occur. AMs should address and minimize both the frequency and magnitude of overages and correct the problems that caused the overages in as short a time as possible. AMs can be either in season AMs or AMs for when the ACL is exceeded.

Sectors are allocated subdivisions of ACLs called Annual Catch Entitlements (ACE) based on each sector's collective catch history. Sectors receive ACE for nine of 13 groundfish species (14 stocks + quotas for Eastern US/Canada cod and haddock; 16 ACEs) in the FMP and are exempt from many of the effort controls previously used to manage the fishery. Each sector establishes its own rules for using its allocations. As of FY2020, 56% of the limited access groundfish permitted vessels are in a sector, and 44% are in the common pool. Common pool vessels act independently of one another, with each vessel constrained by the number of DAS it can fish, by trip limits, and by all the time and area closures. These restrictions help ensure that the groundfish catch of common pool vessels does not exceed the common pool's portion of the commercial groundfish sub- ACL for all stocks (about 1% in recent fishing years) before the end of the fishing year. Relative to the focal species under consideration in this action, there is no directed commercial fishery for ocean pout or windowpane flounder, and possession is currently prohibited.

The recreational fishery includes private anglers, party boat operators, and charter vessel operators. Several groundfish stocks are targeted by the recreational fishery, with some more than others, including GB cod, Gulf of Maine (GOM) cod, GB haddock, GOM haddock, GOM winter flounder, Southern New England/Mid Atlantic (SNE/MA) winter flounder, pollock and redfish. Wolffish was occasionally caught

in the past. Relative to the focal species under consideration in this action, like the commercial fishery possession is prohibited for ocean pout or windowpane flounder. Winter flounder and yellowtail flounder have minimum size limits, 12 in and 13 in, respectively. There is a recreational cod fishery whereby private anglers and party/charter anglers are allowed to catch up to 10 fish per day with a minimum size of 21 inches outside of the Gulf of Maine Regulated Mesh Area (NOAA 2021). Based on the NMFS Socioeconomics Impacts of Atlantic Offshore Wind Development data, cod is one of the most frequently kept species kept on recreational party/charter trips in several of the SNE wind energy areas. The Council's proposal in FW63 if approved by NMFS adjusts recreational cod measures to further promote GB cod rebuilding and is pending final action by NOAA Fisheries:

- Slot Limit- The minimum size for GB cod would be 22 inches (55.88 cm.) and the maximum size would be 28 inches (71.12 cm), total length for the recreational fishery (private, party, and charter)
- Possession Limit- Party, charter, and private vessels in the recreational fishery would be permitted to land 5 legal sized GB cod per angler, per day.
- Season- Party, charter, and private vessels in the recreational fishery would be prohibited from retaining GB cod from May 1 to July 31. No possession would be in place during this time.

5.6.2 Northeast multispecies – small mesh

The small-mesh multispecies fishery (i.e., whiting fishery) in the Greater Atlantic Region operates from Maine to Cape Hatteras, North Carolina; from inshore to offshore waters on the edge of the continental shelf. The primary target species in the whiting fishery are Northern silver hake and Southern whiting. Recent NEFMC actions including Framework 62 rebuilding program for the southern red hake stock (NEFMC 2020b) and 2021-2023 Whiting specifications (NEFMC 2021c) provide additional details on the fishery. For the most part, the gear requirements for the small-mesh multispecies fishery are determined by the exemption or regulated mesh area being fished, including use of raised footrope trawl. Whiting landings have been declining since 2014, averaging 12.12 million pounds in 2016-2018. The landings were about 11.47 million and 10.99 million pounds in 2017 and 2018, respectively. The 2019 landings slightly decreased to 10.97 million pounds (NEFMC 2021c). Annual red hake landings have varied over time but have generally declined in both stock areas in the past few years while discards for both have increased since 2013 (NEFMC 2020). More specifically, red hake landings average 0.99 million pounds over 2016-2018, and decreased by ~12% in 2019 (NEFMC 2021c).

5.6.3 Monkfish

The monkfish fishery in U.S. waters has been jointly managed since 1999 under the Monkfish Fishery Management Plan (FMP) by the NEFMC and the Mid-Atlantic Fishery Management Council (MAFMC), with the NEFMC having the administrative lead. The fishery extends from Maine to North Carolina out to the continental shelf margin. The fishery is managed as two separate stocks; the Northern Fishery Management Area (NFMA) covers the Gulf of Maine (GOM) and northern part of Georges Bank (GB), and the Southern Fishery Management Area (SFMA) extends from the southern flank of GB through the Mid-Atlantic Bight to North Carolina. The fishery is primarily managed with a yearly allocation of days-at-sea (DAS) and landing limits.

The northern and southern areas have distinctions in terms of gear type. Since at least 1980, monkfish landings in the northern area have largely been by vessels using trawls. In the southern area, landings were primarily by vessels using dredges and trawls from 1980 to the early 1990s. Through the 1990s and to today, gillnets have been the predominant gear for vessels landing monkfish. Discards have traditionally been higher in the south relative to the north, and recently, southern discards have approximated or exceeded landings.

Fishery specifications are set every three years. The NFMA has a higher TAL and higher possession limits relative to the SFMA. The discard rate and expected discards for the NFMA increased modestly from the FY 2017-2019 specifications (13.9% to 18.2%), but the increase in the SFMA was more pronounced (24.6% to 50.8%). The large increase in SFMA discards is likely due to the large 2015-year class and predominantly the discards in dredge gear. Landings relative to TAL in the NFMA have been between 80-107% since FY 2016, which could be a combination of revised management measures (possession limits) and the large 2015-year class. The NFMA TAL was increased by 10% for FY 2020-2022 (relative to FY 2017-2019) and the individuals from the 2015-year class have grown large enough to be retained by the fishery and are less likely to be discarded because of minimum size regulations. The landings relative to TAL in the SFMA have been lower than the NFMA, between 39-51% since FY 2016.

From FY 2017-2020, the ACL was exceeded in the NFMA twice and never in the SFMA. Commercial landings made up 77-90% of total catch in the NFMA and 30-59% in the SFMA. State landings, defined as vessels that have never had a federal fishing permit, consistently make up under 0.5% of catch. Recreational catch is consistently under 3% of catch. In the NFMA, discards were 9% of catch in FY 2017 and increased to 28% and lowered to 20% and 19% of catch in FY 2018-2020. In the SFMA, discards were higher in FY 2017-2019 (41-43%) but lowered to 13% in FY 2020.

Monkfish fishery revenue has generally declined in recent years, from \$42.2M in CY 2005 to \$10.3M in CY 2021 (not adjusted for inflation). Since at least CY 2011, about half of this revenue is from trips where monkfish was over 50% of total revenue. There is a declining number of vessels that had trips where the monkfish revenue was over 50% of total revenue, from 206 in CY 2011 to 70 in CY 2020. CY 2020 and 2021 were particularly low revenue years. Monkfish price per live pound has been on a declining trend since 2010, though prices have been increasing within the last year. Seasonally, prices tend to be lower in spring to summer months and higher in fall to winter.

Additional recent information about the monkfish fishery can be found in Frameworks 12 and 13 to the Monkfish FMP (<https://www.nefmc.org/management-plans/monkfish>).

5.6.4 Skate complex

The Northeast skate complex fishery in the Greater Atlantic Region includes seven skate species and operates from Maine to Cape Hatteras, North Carolina; from inshore to offshore waters on the edge of the continental shelf. The primary target species in the skate fishery are winter and little skates. Winter and barndoor skates are harvested for their wings for human consumption, often incidental to effort in other fisheries for groundfish, monkfish, and scallops. While thorny skates are large enough to harvest for the wing market, possession has been prohibited since 2003 due to their status. Vessels landing for the wing market either target skates on Georges Bank, the Great South Channel, or west of the Nantucket Lightship area in Southern New England. Vessels landing for the wing market also target skates in the western Gulf of Maine, primarily using trawl gear. Vessels using gillnets often fish east of Cape Cod.

Little skates and juvenile winter skates are harvested as bait for lobster and other fisheries. Bait skate is primarily landed by trawlers, often as a secondary species while targeting monkfish or groundfish. Most of the bait fishery occurs in New England waters. The directed bait fishery by Rhode Island vessels occurs primarily in federal waters from the Rhode Island/Connecticut/New York state waters boundary east to the waters south of Martha's Vineyard and Nantucket out to approximately 69° W. Other ports that participate in the bait fishery to some extent include ports in southern Massachusetts, Long Island, and Connecticut. Recent NEFMC actions including Framework 8 (NEFMC 2020a), the 2022-2023 Skate Specifications action (NEFMC 2021b), and Skate Amendment 8 (NEFMC 2022b) provide additional details on the fishery.

5.6.5 Atlantic sea scallop

The U.S. Atlantic sea scallop fishery occurs in the Northwest Atlantic, spanning from North Carolina to the Gulf of Maine, with the majority of fishing directed on Georges Bank and in the Mid-Atlantic region. The Limited Access (LA) component of the fishery makes up the majority of the fishery (i.e., 94.5%). The LA component is managed through days-at-sea management, where vessels are allocated a set amount of time that can be fished throughout the year, as well as through a rotational management program, where vessels are allocated a set number of trips to certain areas to create a more optimal distribution of fishing effort and to improve yield. The scallop resource, associated fishery, and spatial distribution of fishing effort, vary from year to year and are largely driven by intermittent recruitment events.

During the fishing years 2009-2018, scallop landings ranged from about 32 to 60 million pounds. In 2018, the total scallop landing from all permit categories increased to about 59.8 million pounds, i.e., a 12.7 percent increase from 2017 landings. Limited access (LA) vessels are responsible for the majority of the scallop landings. In 2017, the LA vessels landed about 50.37 million pounds of scallops, increasing to about 56.76 million pounds in 2018. Landings have declined from roughly 55 million pounds in 2019 to roughly 38 million pounds in 2021 as a result of two large year classes being fished down and a lack of subsequent recruitment.

Most landings come from Georges Bank and the Mid-Atlantic Bight, with additional effort in the Gulf of Maine. Scallops are mostly caught with dredges, although a very small number of vessels in the Mid-Atlantic use trawls. Scallop fishing has occurred in the Southern New England region identified in Section 4.0 of this document (Figure 5). The Long Island region (i.e., made up of stat areas 612 and 613) has been a historically productive area for scallops and has supported open area days-at-sea fishing consistently. Other parts of Southern New England (i.e., stat areas 537, 539, and 611) have not typically been productive scallop grounds, nor have they supported notable levels of effort from the scallop fishery in recent years.

5.6.6 Atlantic herring

The U.S. Atlantic herring fishery occurs in the Northwest Atlantic shelf region from Cape Hatteras to Maine, including an active fishery in the inshore Gulf of Maine and seasonally on Georges Bank. Atlantic herring is managed as one stock complex, but this stock likely has inshore and offshore components that segregate during spawning. In recognition of the spatial structure of the herring resource, the Atlantic herring Annual Catch Limit (ACL) is divided into sub-ACLs and assigned to four herring management areas. Area 1 is the Gulf of Maine (GOM) divided into an inshore (Area 1A) and offshore section (Area 1B); Area 2 is in the coastal waters between MA and NC (generally referred to as southern New England/Mid-Atlantic), and Area 3 is on Georges Bank (GB).

The Atlantic herring fishery generally occurs south of New England in Area 2 during the winter (January-April), and oftentimes as part of the directed mackerel fishery. There is overlap of the herring and mackerel fisheries in Area 2 and in Area 3 during the winter months, although catches in Area 3 tend to be relatively low. The herring summer fishery (May-August) generally occurs throughout the GOM in Areas 1A, 1B and in Area 3 (GB) as fish are available. Restrictions in Area 1A have pushed the fishery in the inshore GOM to later months (late summer). The midwater trawl (single and paired) fleet is restricted from fishing in Area 1A in the months of January through September because of the Area 1A sub-ACL split (0% January-May) and the purse seine-fixed gear only area (all Area 1A) that is effective June-September.

Autumn and winter fishing (September-December) tends to be more variable and dependent on fish availability; the Area 1A sub-ACL is almost always fully used (except in 2017 and 2018), and the inshore GOM fishery usually closes around November. As the 1A and 1B quotas are taken, larger vessels become increasingly dependent on offshore fishing opportunities (Georges Bank, Area 3) when fish may be available. Atlantic herring is caught in state waters and in the New Brunswick weir fishery.

Herring catch limits have declined over time since the FMP was implemented in 1999. The first reduction was in 2006 to about 140,000 mt, followed by another relatively large reduction starting in 2010 with total quotas under 100,000 mt. The total catch limit has remained over 100,000 mt until it was dramatically reduced in 2018 to just under 50,000 mt and again in 2019 to just over 20,000 mt. Herring catches were relatively high in 2010-2015 and decreased starting in 2016 until ACLs were dramatically reduced starting in 2018. The ACL is divided into four management areas (1A, 1B, 2 and 3), and the utilization does vary by area. In most years Area 1A is completely utilized, as well as Area 1B; however, Areas 2 and 3 are not usually fully utilized. In several years, some management areas have been closed to directed herring fishing (a 2,000 lb possession limit is implemented when 92% of that area's sub-ACL is projected to be caught).

Additional recent information about the herring fishery can be found in Framework 9 to the Atlantic Herring FMP (<https://www.nefmc.org/library/framework-9-3>).

6.0 FISHERY IMPACTS OF ALTERNATIVES

HAPCs are designated subsets of EFH that receive additional attention from Fishery Management Councils and NOAA Fisheries when commenting on Federal and state projects (see Appendix A). Offshore wind development is a specific impact of concern relative to these locations and species, however, this additional conservation focus will also be applied to consultations on other offshore development, as well as during development of other federal actions, including fishery management actions. The HAPC designation will support the EFH consultation process which provides non-binding conservation recommendations intended to avoid, minimize, and mitigate the impacts of projects on EFH.

Administratively, HAPC designations are non-regulatory. It is important to note that HAPCs do not need to be designated for the Council to take action to minimize the adverse impacts of fishing on EFH, and that designation of an area as an HAPC does not automatically mean that fishery management measures such as gear restrictions are needed to protect EFH within the HAPC. The NEFMC uses Habitat Management Areas (HMAs) to implement fishing restrictions that are intended to minimize the adverse effects of fishing on EFH. Sometimes HAPCs and HMAs overlap spatially, either fully or partially such that portions of HAPCs are often subject to HMA-based gear restrictions. Because EFH is already designated in the areas under consideration in this framework, the distinction between the no action and action alternatives is one of emphasis on the part of the Council.

Regarding the HAPC designations considered here, direct effects (positive or negative) are not expected for fishery species or the fishing industry. For species that are important to the Council, there are likely to be indirect positive effects in the short and long term assuming that they lead to conservation recommendations being adopted for offshore development projects through the EFH consultation process. It is not possible to estimate the magnitude of positive impact the HAPC designation(s) will have on the adoption of these conservation recommendations. For the fishing industry, the HAPC designations are likely to have indirect negative effects given additional conservation scrutiny will be applied when new fishery management actions that may adversely affect EFH are under review. HAPC designations could also be considered during issuance of exempted fishing permits to the extent that research activities could impact the habitats that are of conservation interest via the HAPC designation. Absent additional HAPC designations for Southern New England, EFH for multiple NEFMC and MAFMC species as well as the existing inshore juvenile cod HAPC will continue to be considered as the foundation for the consultation process. The scientific information used to support the HAPC designations considered here can also be used by the Council and NOAA Fisheries when consulting on projects.

Regarding the impact of HAPC designations on offshore wind development, HAPC designations may or may not influence the development of offshore wind projects, depending on the project's permitting status and the timing of the EFH Assessment and consultation process relative to HAPC designation (Table 11). For projects that are already permitted where the EFH consultation process has already concluded, the HAPC designation is not likely to influence the outcome of the project given the Construction and Operations Plan (COP) along with the Record of Decision are already approved by BOEM. For projects that are not yet permitted and are still in the planning phase, the HAPC designation could influence the development of the proposed projects (design, construction, and operations) and the conservation recommendations provided by NMFS during the EFH consultation process. The HAPC designation could allow for changes in the project during the design phase, prior to formal NEPA review. Conservation recommendations made through the formal EFH consultation process may lead to changes in the way the project is constructed, for example alternative locations for turbines or cables, time-of-year construction restrictions, or alternative construction methods (use of specific types of scour protection, for example). Additional information on EFH consultations can be found in Appendix A.

Offshore development can affect fishery species in many ways (see section 0). Conservation measures are designed to avoid, minimize, and mitigate these effects. For example, offshore development is expected to cause habitat conversion, where natural soft bottom and complex habitats will be converted into artificial

hard bottom at the turbine and substation locations. Specific construction locations can be removed or adjusted (microsited) to avoid impacts to habitats of specific concern within the HAPC. Such habitats are often identified using project-specific data. Construction and operational noise can alter acoustic habitats and cause behavioral and communication problems for fishes. Noise-dampening installation techniques such as bubble curtains and time of year restrictions may be recommended to reduce noise and/or minimize noise during sensitive time periods. Monitoring activities may also be recommended to better understand the impacts of development, both in real time and/or afterwards. Monitoring could be used to detect presence of sensitive organisms and pause construction, or to better understand impacts to inform future development.

A comparison of alternatives of expected fishery impacts from each of the HAPC designation alternatives is included in Table 12. Additional information is included within each of the alternative sections below.

Table 12. Expected fishery impacts of alternatives for designating an HAPC in Southern New England.

Alternative Description	Expected Positive Impacts	Expected Negative Impacts
<i>Alternative 1 – No Action</i>	<ul style="list-style-type: none"> • Avoids new administrative burdens associated with evaluating impacts of federal actions, including Council actions, on habitats in the HAPC. 	<ul style="list-style-type: none"> • Missed opportunity to highlight areas of particular conservation concern, which could potentially minimize the impact of offshore wind development.
<i>Alternative 2 – Cox Ledge spawning ground</i>	<ul style="list-style-type: none"> • Could influence projects that are leased but still undergoing environmental review (Revolution Wind and Sunrise Wind). • Protects spawning habitat in short term if additional offshore wind project conservation recommendations are adopted; could benefit the fishery in the long term if stock status improves or is at least maintained. • Indirectly benefits EFH for other overlapping managed species to the extent that conservation recommendations support these species and habitat features • Focused designation, emphasizes a smaller area that is actively used by cod for a specific purpose. 	<ul style="list-style-type: none"> • Does not focus protection on historically important spawning sites or those that might be identified based on future data collection. • Indirectly applies an additional level of conservation scrutiny to any future fisheries management within the HAPC. This creates administrative requirements and could make development of measures more challenging.

<p><i>Alternative 3 – Cox Ledge spawning ground plus future spawning sites in SNE</i></p>	<ul style="list-style-type: none"> • Could influence a greater number of offshore wind development projects given the HAPC designation overlaps with projects not yet permitted and for which EFH consultations are not yet completed. • Proactive approach to protecting cod spawning sites that are currently in use but not as well documented scientifically (i.e., sites not included in Alternative 2) • Protects current vulnerable spawning habitat in short term if additional conservation recommendations are adopted; could benefit the fishery in the long term if stock status improves or is at least maintained. • Focused designation, emphasizes areas that are used by cod for a specific purpose. • Emphasizes importance of more targeted data collection on cod spawning for fisheries and habitat monitoring plans. 	<ul style="list-style-type: none"> • Precautionary aspect of designation requires additional data gathering and evaluation to document use of locations as cod spawning sites in the future as more data and evidence become available. • Indirectly applies an additional level of conservation scrutiny to any future fisheries management within the HAPC.
<p><i>Alternative 4 – Complex habitat HAPC in SNE for multiple NEFMC species</i></p>	<ul style="list-style-type: none"> • Could impact offshore wind development given the HAPC designation overlaps projects that are both permitted and not yet permitted. • More comprehensive – accounts for a range of species that will likely be impacted by offshore development via temporary habitat disturbance or permanent habitat conversion. • Emphasizes importance of more targeted data collection on complex habitat within Southern New England for fisheries and habitat monitoring plans. 	<ul style="list-style-type: none"> • The area is a broad designation not overly different than basing conservation recommendations on EFH of individual focal species, so may not be effective in providing conservation benefits. One exception is perhaps where complex habitat is found. • Indirectly applies an additional level of conservation scrutiny to any future fisheries management within the HAPC.

<p><i>Alternative 5</i></p>	<ul style="list-style-type: none"> • Could impact offshore wind development given the HAPC designation overlaps projects that are both permitted and not yet permitted. • More comprehensive – accounts for a range of species that will likely be impacted by offshore development via temporary habitat disturbance or permanent habitat conversion. • Emphasizes importance of more targeted data collection on complex habitat within Southern New England for fisheries and habitat monitoring plans. • Proactive approach to protecting cod spawning sites that are currently in use but not as well documented scientifically (i.e., sites not included in Alternative 2) • Protects current vulnerable spawning habitat in short term if additional conservation recommendations are adopted; could benefit the fishery in the long term if stock status improves or is at least maintained. • Focused designation, emphasizes areas that are used by cod for a specific purpose. 	<ul style="list-style-type: none"> • The areas are already leased so the designation is not likely to influence overall project location, however micro-siting could occur. • Precautionary aspect of designation requires additional data gathering and evaluation to document use of locations as cod spawning sites in the future as more data and evidence become available. • Broad designation; not overly different than basing conservation recommendations on EFH of individual focal species, may thus provide limited benefits for EFH consultation except perhaps where complex habitat is found. • Indirectly applies an additional level of conservation scrutiny to any future fisheries management within the HAPC.
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6.1 ALTERNATIVE 1 – NO ACTION

Alternative 1 would not designate any new HAPCs in Southern New England. Thus, habitats used for cod spawning or by species that feed and shelter within complex bottom would not receive enhanced conservation focus related to offshore wind development. These habitats would still receive attention during the EFH consultation process, but without the additional emphasis afforded via an HAPC designation.

Overall, Alternative 1 is not likely to result in any significant effects on fishery resources. There could be some negative impacts on the fishing industry in the long term given there would not be any additional conservation scrutiny on offshore wind development projects in Southern New England. This means that any avoidance, minimization, and/or mitigation measures that would have occurred if the area was designated as an HAPC may not actually be part of the terms and conditions of offshore wind projects. On the other hand, administrative burdens that would be associated with evaluation of projects with respect to any new HAPC designation(s) would be avoided under No Action.

6.2 ALTERNATIVE 2 – COX LEDGE COD SPAWNING HAPC

Alternative 2 could provide some degree of protection for cod spawning habitats by identifying areas of cod spawning sites on and around Cox Ledge as an HAPC. However, given the HAPC overlaps two lease areas for projects that are already permitted, the designation is not likely to influence the designs of those projects. This is not a negative impact of the designation given the projects were already permitted before work on designating an HAPC was underway. The designation could influence the designs of the other projects on adjacent leases that are still undergoing environmental review and not yet permitted. The identification of cod spawning sites on and around Cox Ledge as an HAPC highlights the importance of this essential fish habitat and emphasizes the need for conservation measures to be recommended during EFH consultation on activities such as offshore wind development, drilling, dredging, laying cables, and dumping, as well as fishing activities. The direct impacts of Alternative 2 on fisheries would be similar in magnitude to Alternative 1 because the Alternative 2 HAPC designation does not restrict fishing activities. However, the impacts of fishing activities on EFH within the HAPC could receive additional consideration following the designation, resulting in indirect negative impacts on the fishing industry.

It is potentially more likely that NOAA Fisheries EFH conservation recommendations could be adopted given existence of the HAPC versus if an HAPC were not designated, for those projects that are not yet permitted. **Relevant conservation recommendations that would be emphasized by having an HAPC designation for cod spawning sites include time of year restrictions on construction activities (avoiding times when cod are known to spawn based on acoustic and other survey data), area restrictions on where turbines, substations, and cable corridors can be constructed (avoiding active cod spawning grounds), and monitoring plan requirements to survey for cod aggregations that are indicative of spawning behavior.**

It is possible that adult cod spawning habitat outside these known spawning areas identified in Alternative 2 also serves important ecological functions, is rare, and is sensitive to human-induced environmental degradation. However, this alternative focuses on known active spawning sites on and around Cox Ledge.

6.3 ALTERNATIVE 3 – COD SPAWNING HAPC ENCOMPASSING COX LEDGE AND SITES IDENTIFIED IN THE FUTURE BASED ON NEW DATA

Alternative 3 provides additional protection (relative to Alternative 2) for cod spawning habitat by identifying areas of active cod spawning sites and any future spawning areas identified in statistical areas corresponding to the Southern New England cod stock as HAPCs. The identification of these sites as HAPCs highlights the importance of this essential fish habitat for conservation and consultation on activities such as offshore wind development, drilling, dredging, laying cables, and dumping, as well as fishing activities. The direct fishing impacts of Alternative 3 would be similar in magnitude to Alternative 1 because under Alternative 3 fishing activities are not restricted. However, the impacts of fishing activities on EFH within the HAPC could receive additional consideration following the designation, resulting in indirect negative impacts on the fishing industry.

As for Alternative 2, it is potentially more likely that NOAA Fisheries EFH conservation recommendations could be adopted given existence of the HAPC versus if an HAPC were not designated, for those projects that are not yet permitted. This alternative would also be more proactive as additional data on cod spawning become available within the SNE statistical areas. The alternative could influence designs for projects that are not yet permitted either during the EFH consultation process or before this process begins. The HAPC designation is most influential for projects that are earlier on in the environmental review process (before the EFH assessment) given the project is still being designed and recommended changes to avoid, minimize, and mitigate impact are easier to incorporate into the project earlier rather than later after the project design is already or nearly complete. For projects that are already permitted, however, Alternative 3 is not likely to influence the project design. This is not a negative

impact of the designation given the projects were already permitted before work on designating an HAPC was underway.

Relevant conservation recommendations that would be emphasized by having an HAPC designation for cod spawning sites include time of year restrictions on construction activities (avoiding times when cod are known to spawn based on acoustic and other survey data), area restrictions on where turbines, substations, and cable corridors can be constructed (avoiding active cod spawning grounds), and monitoring plan requirements to survey for cod aggregations that are indicative of spawning behavior.

The Council is sensitive to the possibility that as additional information is evaluated on the impact from offshore development to adult cod, protection of additional habitats may be warranted.

6.4 ALTERNATIVE 4 – COMPLEX HABITAT HAPC FOR MULTIPLE SPECIES AND LIFESTAGES

Alternative 4 considers an HAPC for areas with complex habitat for the following species that have utilize complex habitat during their life history and have designated EFH within Southern New England: Atlantic cod, Atlantic herring, Atlantic sea scallop, little skate, monkfish, ocean pout, red hake, winter flounder, and winter skate. Note that this alternative could also indirectly benefit other species that are not managed by NEFMC. If/when additional complex habitats are found, then these areas would be considered HAPC and consultation would encompass these locations as well. As better habitat information becomes available the Council may be able to refine its identification and description of the HAPC. The Council can also evaluate the need for fishing gear management measures within the HAPC, although designation of gear restricted areas would require an additional Council action through a framework or amendment to one or more FMPs.

Like Alternative 3, this alternative is considered proactive, since application of the HAPC to specific locations will change over time as additional data are collected. The alternative could influence project designs for projects that are not yet permitted, either during the EFH consultation process, through removal of turbine locations or via micrositing, or before the process through the design of alternatives that avoid complex habitat areas. The HAPC designation is expected to be most influential for projects that are earlier on in the environmental review process (before the EFH assessment) given the project is still being designed and recommended changes to avoid, minimize, and mitigate impact are easier to incorporate into the project earlier rather than later after the project design is already or nearly complete. For projects that are already permitted, Alternative 4 is not likely to influence the project design. This is not a negative impact of the designation given the projects were already permitted before work on designating an HAPC was underway.

The direct fishing impacts of Alternative 4 would be similar in magnitude to Alternative 1 because under Alternative 4 fishing activities are not restricted. However, the impacts of fishing activities on EFH within the HAPC could receive additional consideration following the designation, resulting in indirect negative impacts on the fishing industry. It is worth noting that this designation may be too broad to be effective in providing conservation benefits given the spatial extent is not overly different than basing conservation recommendations on EFH of individual focal species.

6.5 ALTERNATIVE 5 – COD SPAWNING AND COMPLEX HABITAT HAPC WITHIN WIND ENERGY AREAS (PREFERRED)

Alternative 5 considers an HAPC for areas with complex habitat for the following species Atlantic cod, Atlantic herring, Atlantic sea scallop, little skate, monkfish, ocean pout, red hake, winter flounder, and winter skate. Each of these utilize complex habitat during one or more stages of their life history and have

designated EFH within Southern New England: Note that this alternative could also indirectly benefit other species that are not managed by NEFMC. If/when additional complex habitats are found, then these areas would be considered HAPC and consultation would encompass these locations as well. As better habitat information becomes available the Council may be able to refine its identification and description of the HAPC. The Council can also evaluate the need for fishing gear management measures within the HAPC, although designation of gear restricted areas would require an additional Council action. Note that this alternative could also indirectly benefit other species that are not managed by NEFMC.

Alternative 5 also focuses protection on cod spawning grounds, providing additional protection (relative to Alternative 2) for cod spawning habitat by identifying areas of active cod spawning sites and any future spawning areas within the HAPC. The identification of these sites as HAPCs highlights the importance of this essential fish habitat for conservation and consultation on activities such as offshore wind development, drilling, dredging, laying cables, and dumping, as well as fishing activities.

Like Alternatives 3 and 4, Alternative 5 is considered proactive, since application of the HAPC to specific locations will change over time as additional data are collected. The alternative could influence project designs for projects that are not yet permitted, either during the EFH consultation process, through removal of turbine locations or via micrositing, or before the process through the design of alternatives that avoid complex habitat areas. The HAPC designation is expected to be most influential for projects that are earlier on in the environmental review process (before the EFH assessment) given the project is still being designed and recommended changes to avoid, minimize, and mitigate impact are easier to incorporate into the project earlier rather than later after the project design is already or nearly complete. For projects that are already permitted, Alternative 5 is not likely to influence the project design. This is not a negative impact of the designation given the projects were already permitted before work on designating an HAPC was underway.

The direct fishing impacts of Alternative 5 would be similar in magnitude to Alternative 1 because under Alternative 5 fishing activities are not restricted. However, the impacts of fishing activities on EFH within the HAPC could receive additional consideration following the designation, resulting in indirect negative impacts on the fishing industry.

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8.0 APPENDIX A: EFH CONSULTATION PROCESS

NOAA conducts habitat consultations when fish and their habitats interact with human-caused activities in order to minimize any impacts. Activities include fishing operations and also non-fishing activities including, for example, construction and operation of power plants, port expansion, pollutant discharge, and offshore energy development. The Magnuson-Stevens Act requires NOAA Fisheries to identify and conserve EFH for all federally managed fish species. All federal agencies must go through an EFH consultation process with NOAA Fisheries when a determination is made that an action either fully or partially authorized, funded, or undertaken by a federal agency might adversely affect EFH. The consultation identifies measures to avoid, reduce, or compensate any adverse impacts to EFH. For state agencies, an EFH consultation is not required for state actions that would adversely affect EFH, however, NOAA Fisheries is still required to provide conservation recommendations to mitigate any impact. Private landowners and federal actions that will not adversely affect EFH are not required to consult with NOAA Fisheries.

More specifically, actions that require consultations with NOAA Fisheries [include](#):

- Proposed activities that are either fully or partially authorized, funded, or undertaken by a federal agency, including the military. If a project requires a federal permit, then the federal agency issuing the permit must consult with NOAA Fisheries.
- Proposed actions that will directly or indirectly adversely affect EFH either physically, chemically, or biologically. This includes adverse changes to waters or substrate, species and their habitat, other ecosystem components, and/or quality / quantity of EFH.

The consultation process entails the following steps for actions that will adversely affect EFH:

1. The action / implementing agency provides notification to NOAA Fisheries in writing (as early as possible); pre-consultation discussions occur.
2. The action agency submits an EFH assessment to NOAA Fisheries.
3. NOAA Fisheries reviews the EFH assessment for completeness (15 days for sufficiency review)
4. If incomplete, NOAA requests additional information
5. Once deemed complete, NOAA provides the EFH conservation recommendations, if necessary, to the action agency within 30-60 days (60 days if the action is undergoing an expanded EFH consultation*).
6. The action agency responds to NOAA Fisheries within 30 days for how the agency will proceed with the action (i.e., which, if any, conservation recommendations will be adopted, and a rationale for why certain recommendations are not being adopted)

EFH consultations are typically combined with other review processes including those required under the National Environmental Policy Act and the Endangered Species Act.

*Actions undergo an expanded EFH consultation process when NMFS determines that either the action may result in substantial adverse effects on EFH or if additional data or analysis would provide better information for development of EFH Conservation Recommendations. A request for additional time after the EFH assessment becomes available needs to happen early in order to complete the conservation recommendations. NMFS provides an explanation for why an expanded consultation is needed and specify any request for new information. Then NMFS and the Federal agency work together to review the action's impacts on EFH and to develop EFH Conservation Recommendations within 60 days of submittal of a complete EFH Assessment (unless extended in agreement by all parties) ([67 FR 2376](#)).

For more information:

- https://media.fisheries.noaa.gov/2022-01/03-201-11_GUIDE%20to%20EFH%20CONSULTATIONS_final%20for%20signature%20%281%29_0.pdf

- <https://media.fisheries.noaa.gov/dam-migration/03-101.pdf>
- <https://www.fisheries.noaa.gov/about/office-protected-resources>
- <https://www.fisheries.noaa.gov/topic/consultations#habitat-consultations>
- <https://www.fisheries.noaa.gov/national/habitat-conservation/consultations-essential-fish-habitat>

Timing of the EFH consultation process relative to the NEPA and offshore wind permitting processes

To put the EFH consultation process into context, below are the steps in which the NEPA process is carried out in the offshore wind development process. For each of these steps, there is a comment period of typically 30 days in which stakeholders have an opportunity to provide input on important resources and issues, impact-producing factors, reasonable alternatives, and potential mitigating measures that should be analyzed in the EIS. BOEM holds public scoping meetings during the comment period to describe an overview of the Construction and Operations Plan, provide an opportunity for the public to ask questions, and to receive oral testimony. The HAPC designation will be considered during the EFH consultation process once the Final EFH Assessment is complete, which should be released when the Notice of Availability for the DEIS comes out.

1. Notice of Intent (NOI) to prepare an EIS
2. Draft Environmental Impact Statement (DEIS)
3. Notice of Availability (NOA)
4. Final Environmental Impact Statement (FEIS)
5. Record of Decision (ROD)

For additional context, the permitting process for renewable energy is as follows. Similar to the NEPA process described above, there is typically a public comment period for each of the planning stages where the HAPC designation could have an influence on where areas are leased and where turbines and cable routing are constructed, for example.

1. Planning Area
2. Request for Interest (RFI)
3. Call Area
4. Wind Energy Area (WEA)
5. Lease Area
6. Site Assessment Plan (SAP)
7. Construction and Operations Plan (COP)