Appendix E
NMFS Recommendations for the EFH Provisions of the FMPs

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Recommendations for the EFH Provisions of
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Section 305(b)(1)(B) of the Magnuson-Stevens Fishery Conservation and Act requires that "The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat." The EFH regulations at 50 CFR 600.815(b) elaborate on this requirement as follows:

> Development of EFH recommendations for Councils. After reviewing the best available scientific information, as well as other appropriate information, and in consultation with the Councils, participants in the fishery, interstate commissions, Federal agencies, state agencies, and other interested parties, NMFS will develop written recommendations to assist each Council in the identification of EFH, adverse impacts to EFH, and actions that should be considered to ensure the conservation and enhancement of EFH for each FMP. NMFS will provide such recommendations for the initial incorporation of EFH information into an FMP and for any subsequent modification of the EFH components of an FMP. The NMFS EFH recommendations may be provided either before the Council's development of a draft EFH document or later as a review of a draft EFH document developed by a Council, as appropriate.

The North Pacific Fishery Management Council and the National Marine Fisheries Service (NMFS) are developing an Environmental Impact Statement (EIS) to consider potential modifications to the Essential Fish Habitat (EFH) provisions of the Council's five Fishery Management Plans (FMPs). NMFS has used a variety of means to provide recommendations and information to assist the Council with this EIS, such as providing biological information regarding the habitat requirements of managed species; developing spatial analyses of distribution data to facilitate the identification of EFH; developing a model used in the EIS to evaluate the effects of fishing on EFH; developing and/or assisting with all of the analyses in the EIS; participating on the Council's EFH Committee and providing staff support for the Committee's work; and providing technical and policy guidance to advise the Council on how best to fulfill the EFH requirements of the Magnuson-Stevens Act. This appendix to the EIS constitutes NMFS' written recommendations pursuant to 50 CFR 600.815(b).

Recommendations Regarding the Description and Identification of EFH

The EIS evaluates six alternatives for the description and identification of EFH. The alternatives are presented in Section 2.3.1, and their environmental consequences are evaluated in Section 4.1. As discussed in the comparative summary of the alternatives in Section 4.5.1, three of the alternatives would not comply with the requirements of Section 303(a)(7) of the Magnuson-Stevens Act and the EFH regulations at 50 CFR 600.815(a)(1)(iv). Alternatives 1 and 6 are not consistent with the Magnuson-Stevens Act or the EFH regulations because they would not describe and identify any habitats (Alternative 1) or all habitats (Alternative 6) necessary to managed species for spawning, breeding, feeding, or growth to maturity. Alternative 2 is not consistent with the Magnuson-Stevens Act or the EFH regulations because it does not reflect the best (most recent) scientific information available, as required by national standard 2 (16 U.S.C. 1851(a)(2)) and 50 CFR 600.815(a)(1)(ii)(B).

Alternatives 3 through 5 are consistent with the Magnuson-Stevens Act and the EFH regulations. As discussed in Section 4.5.1 of the EIS, those alternatives take different approaches that influence their overall efficacy. In summary, Alternative 3 applies the same approach used in the status quo (Alternative 2) EFH designations, which are relatively broad in scope and are premised on a risk averse approach, but Alternative 3 applies more recent information, improved analytical tools, and better mapping. Alternative 3 would result in geographically smaller EFH areas for some species. Alternative 4 uses a narrower interpretation of the available scientific information, and would result in smaller EFH areas for many species. Alternative 5 uses a very different, habitat-based, ecoregion approach that would result in broader EFH descriptions than the status quo Alternative 2, making it harder to distinguish EFH from all available habitats.

NMFS recommends that the Council endorse Alternative 4 for describing and identifying EFH. Experience implementing the EFH provisions of the Magnuson-Stevens Act using the existing EFH areas (the status quo Alternative 2) since 1999 suggests that there may be advantages to describing and identifying EFH more narrowly in cases where sufficient scientific information exists. Where Level 2 (relative abundance) information is available for adult and/or juvenile life stages, narrower EFH designations would highlight habitat areas that commonly support higher concentrations of the managed species. Such areas presumably represent higher relative habitat value compared to other habitats for the species. Describing and identifying these smaller areas as EFH for specific managed species would enable the Council, NMFS, other federal and state agencies, and fishing and non-fishing industries to focus on smaller areas for purposes of avoiding and minimizing adverse effects to the habitat. Smaller EFH areas – in cases where identifying EFH more narrowly is supported by the best available scientific information – would help to prioritize management efforts and could therefore be a more effective tool for habitat conservation than larger areas. Larger EFH areas arguably may be more risk averse, and that rationale was used by the Council in 1998 to support the existing EFH designations (Alternative 2). However, for some species (e.g., BSAI Pacific cod) sufficient information exists to identify concentration areas with a fairly high degree of confidence. Also, it is relevant to note that the total aggregated area of EFH descriptions for all managed species would be identical under Alternatives 2, 3, and 4 because data limitations for certain species (e.g., Coho salmon) would lead to equally broad EFH designations under any of those alternatives. In summary, Alternative 4 would identify EFH as the area of presumed known concentration for species for which sufficient information exists, and for the remaining species and life stages it would identify EFH according to the general distribution of the species as in Alternative 3.

Recommendations Regarding the Approaches for Identifying HAPCs

The EIS evaluates five alternative approaches for identifying HAPCs. The alternatives are presented in Section 2.3.2, and their environmental consequences are evaluated in Section 4.2. As discussed in the comparative summary of the alternatives in Section 4.5.2, all of the alternatives are consistent with the EFH regulations, which encourage (but do not require) identification of HAPCs and allow HAPCs to be identified as either areas or types of habitat within EFH.

Alternative 1 would rescind the existing HAPCs and provide for no new HAPCs, and thus would fail to take advantage of a tool available to the Council to highlight particularly valuable and/or vulnerable habitats within EFH. Alternative 2 would retain the status quo HAPCs, but the broad and general nature of the existing HAPC designations limits their efficacy as a tool for prioritizing discrete habitat areas. Alternative 3 would limit HAPCs to specific sites, rather than permitting HAPCs to be identified for general types of habitat wherever they may be found, and therefore could be more effective than Alternative 2 by virtue of being more focused. Alternative 4 may offer more potential benefits for target species than the other alternatives because the stepwise process of selecting habitat types and then

specific sites could yield a more rational and structured effort to ensure that HAPCs would focus on the habitats within EFH that are most valuable and/or vulnerable. Alternative 5 would limit the identification of HAPCs to specific sites supporting habitat functions for individual target species. It therefore has the potential to benefit target species more directly than the other alternatives, although the scarcity of scientific information about habitat requirements of individual species could limit the effectiveness of this approach.

NMFS recommends that the Council endorse Alternative 4 as the preferred approach for identifying HAPCs. As noted above, Alternative 4 has the advantage of encouraging specific site-based HAPCs that are more focused than the status quo HAPC designations, and it also provides a means for the Council to select habitat types of concern first as a way to prioritize the kinds of habitat for which site-specific HAPC designations should be considered. This approach would promote a structured analysis of candidate HAPCs, thereby encouraging the screening process to evaluate specific areas that meet characteristics defined by the Council as being especially important.

Alternative 4 would rescind the existing HAPC designations (living substrates in deep water, living substrates in shallow water, and freshwater areas used by anadromous salmon) and adopt a new type/site based approach for HAPCs. NMFS' support for this alternative should not be construed to imply that the existing HAPCs represent unimportant habitat types. On the contrary, the habitat types included in the existing HAPCs are extremely important for Council managed species. However, for management purposes, identifying habitat types of concern and then designating specific HAPC sites within those habitat types would yield a more effective tool for habitat conservation.

Recommendations Regarding Measures to Minimize the Effects of Fishing on EFH

The EIS analyzes seven alternatives to minimize to the extent practicable the adverse effects of fishing on EFH. Appendix B evaluates the effects of fishing on EFH in Alaska, and concludes that no Council-managed fishing activities have more than minimal and temporary effects on EFH for any FMP species. Additionally, the analysis concludes that all fishing activities combined have minimal, but not necessarily temporary, effects on EFH. However, Appendix B and Section 4.3 both note that considerable uncertainty remains regarding these conclusions. The fishing impacts model and its application in the EIS have many limitations. Both the developing state of this new model and the limited quality of available data to estimate input parameters prevent the analysis from drawing a complete picture of the effects of fishing on EFH. The model incorporates a number of assumptions about habitat effect rates, habitat recovery rates, habitat distribution, and habitat use by managed species. The quantitative outputs of the analysis may convey an impression of rigor and precision, but the results actually are subject to considerable uncertainty. Thus, while the available information does not identify adverse effects of fishing that are more than minimal and temporary in nature, that finding does not necessarily mean that no such effects exist.

NMFS recommends that the Council pursue three courses of action regarding the effects of fishing on EFH:

1. The Council should continue to analyze carefully the effects of its management actions on sea floor habitats. NMFS remains committed to assisting the Council with such analyses.

2. The Council should continue to support research funded by NMFS, the North Pacific Research Board, and other entities to improve scientific understanding of the effects of fishing on

habitat, the linkages between habitats and managed species, and the recovery rates of sea floor habitats following disturbance by fishing gear.

3. The Council should take specific precautionary management actions to avoid additional disturbance to fragile sea floor habitats that may be especially slow to recover – most notably deep water coral communities.

Although NMFS is not recommending any particular measures at this time, two avenues are especially promising. First, as noted in Section 4.5.3, precautionary actions to prohibit bottom-contact trawling (bottom trawling as well as pelagic trawling that contacts the bottom) in the lower slope/basin areas deeper than 1000 m would protect such habitats from reasonably foreseeable future impacts with almost no short-term costs. The Council could either endorse one of the EIS alternatives that includes such areas, or identify specific lower slope/basin area closures to be analyzed separately from other measures in a distinct new alternative, and then endorse that alternative at the December 2003 Council meeting.

Secondly, the Council could use its forthcoming HAPC process as a means to identify and protect corals and other especially fragile habitats that recover slowly following disturbance. The HAPC process described in Appendix J includes a step for the Council to establish priorities for the kinds of HAPCs it will consider. Choosing corals and other similarly sensitive and slow-growing biogenic habitats as the highest priority would set a course toward additional protection of such habitats in the near future, while affording all stakeholders ample opportunity for involvement in the identification of such areas and the development of appropriate management measures.

Recommendations Regarding Other Actions to Conserve and Enhance EFH

One of the requirements of Section 303(a)(7) of the Magnuson-Stevens Act is for FMPs to identify "other actions to encourage the conservation and enhancement of" EFH. This requirement refers to actions other that those necessary to minimize to the extent practicable the adverse effects of fishing on EFH. The EFH regulations require that FMPs identify activities other than fishing that may adversely affect EFH and recommend options to avoid, minimize, or offset adverse effects.

Appendix G of the EIS discusses threats to EFH from activities other than fishing, and provides recommendations for conducting such activities in a manner to promote the conservation and enhancement of EFH. Appendix G discusses a wide variety of activities, such as mining, forestry, agriculture, oil and gas development, dredging, and filling wetlands. The recommendations presented in Appendix G are advisory, and are not binding upon entities involved in non-fishing activities. NMFS recommends that the Council endorse the Appendix G recommendations.