



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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BOSTON, MASSACHUSETTS 02114-2023

OFFICE OF THE
REGIONAL ADMINISTRATOR

November 6, 2008

Patricia Kurkul
Regional Administrator
Northeast Regional Office
National Oceanic and Atmospheric Administration
1 Blackburn Drive
Gloucester, Massachusetts 01930

Re: Draft Amendment 3 to the Fishery Management Plan (FMP) for the Northeast Skate Complex and Draft Environmental Impact Statement (DEIS) (CEQ# 20080375)

Dear Administrator Kurkul:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Draft Environmental Impact Statement (DEIS) for Draft Amendment 3 to the Fishery Management Plan (FMP) for the Northeast Skate Complex. Based on our review of the DEIS we have no objections to the project as described and we rate this EIS "LO-1 - Lack of Objections--Adequate" in accordance with EPA's national rating system, a description of which is attached to this letter.

We offer the following comments for your consideration as you work to develop the FEIS for the project:

- The DEIS states that no changes to skate EFH descriptions or designations are proposed. The environmental impacts of the different alternatives with regards to EFH are not developed in the DEIS and do not provide a clear basis for choice among alternatives. We encourage you to include this information in the FEIS.
- The DEIS states that discards/by-catch of other fish and shellfish have not been estimated and are unpredictable. We believe the FMP should be structured to minimize discards. While both the Target Tac approach and the Hard Tac approach have the potential to increase skate discards, EPA supports the Target Tac approach because it is anticipated to result in a less dramatic increase than the Hard Tac approach.
- EPA recommends Alternative 2 (Option 1) as the preferred alternative. This alternative includes: time/area closures which may be beneficial during spawning, migration, foraging and nursery activities; and a prohibition on using

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Multispecies Category B DAS to fish for skates. Also, we recommend Alternative 2 (Option 1) because it could have a relatively smaller effect on sea turtles than Option 2. This option also appears to have a better potential to prevent overfishing of larger skates (e.g. winter skates).

Thank you for the opportunity to review the Northeast Skate Complex DEIS. Please contact Timothy Timmermann of EPA's office of Environmental Review at (617) 918-1025 with any questions or comments.

Sincerely,

A handwritten signature in black ink that reads "Bob". The signature is written in a cursive, slightly slanted style.

Robert W. Varney
Regional Administrator

enclosure

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.