



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

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OFFICE OF THE
REGIONAL ADMINISTRATOR

June 4, 2009

Patricia A. Kurkul
Regional Administrator
Northeast Regional Office
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930

RE: Draft Environmental Impact Statement for Amendment 16 to the Northeast
Multispecies Fishery Management Plan (CEQ # 20090124)

Dear Ms. 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 Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The DEIS is a thoughtful and comprehensive document that effectively addresses the highly complex nature of managing multiple fish species. Unfortunately, 12 of the 19 stocks managed under this fishery management unit (FMU) are considered overfished despite years of fishing restrictions designed to reduce fishing and bycatch mortality. However, the implementation of new approaches for New England fisheries management (e.g., fishing sectors) provide hope that declines in stocks can be reversed without devastating our fishing communities.

Based on our review of the DSEIS 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. EPA offers the following minor comments on the DEIS for your consideration as you work to develop the Final Environmental Impact Statement. The comments are listed in the order the applicable sections appear in the DEIS.

4.2.2. Purpose and Need

Most of the "needs" listed on DEIS page I-48 are expressed in overly general terms that are likely applicable to all FMPs. The purpose and need section would benefit from a description of the factors that prompted the need for Amendment 16. Some of the information provided in the previous section on prior management actions could perhaps be helpful. If the regulations under Amendment 13 and subsequent framework

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adjustments are inadequate for meeting the legal requirements established in the Magnuson-Stevens Fishery Conservation and Reauthorization Act (MSA) of 2006, we recommend that the "Needs" column listed on page I-48 include the specific regulatory requirements that form the basis for the measures developed to meet those requirements.

For example, instead of the listed "need" being "End overfishing," it should state, "End overfishing by 2010/2011 consistent with the status of the stock and the requirements of the MSA of 2006." Firm deadlines are established in the MSA of 2006, according to the DEIS (p. I-42) and that could also be referenced in the purpose column with a bullet that reads "meet requirements of MSA of 2006." If other specific reasons prompted the development of Amendment 16, we recommend that they be listed under this section in the FEIS as well. In addition, the EIS should describe how realistic it is to assume that the deadlines will be met as well as what interim steps (if any) will be taken to address the near term horizon before overfishing is to end per the MSA of 2006.

4.3.3.2.2 Option 2 – Additional Requirements

This section identifies additional requirements for the development of a sector under Option 2. Among the requirements listed is the need for the development and approval of a NEPA document that assesses the impacts of forming a specific sector. The DEIS identifies contracts developed by West Coast and Alaskan whiting and pollock cooperatives as possible guides for determining the form and content of the NEPA documents. While these contracts may be helpful, additional guidance for developing acceptable NEPA assessments and documents should be provided in Amendment 16 if this option is selected, and referenced in the FEIS. Clear and specific guidance on NEPA document development should result in less confusion by sector members over NEPA requirements, and the development of more informative documents.

4.4.4.2 Option 2 – Increase in Atlantic Halibut Minimum Size

The stated rationale for this option is that this increase in minimum size matches the median length at maturity for female haddock in the Gulf of Maine. The DEIS does not explain how matching the minimum size limit of Atlantic halibut to that of haddock is expected to increase spawning opportunities for halibut. Since the connection between these two species is not intuitively clear, beyond their demersal nature, this relationship should be better explained in the FEIS.

6.2.2.2 Addition of Atlantic Wolffish to the Management Unit

This section discusses the option of adding Atlantic wolffish to the multispecies fisheries management unit (FMU). According to the DEIS, available data since the 1980's indicate that this species is being overfished. The DEIS explains that without being included under a management unit, there would be no means under the MSA to identify essential fish habitat (EFH) for this species, or develop a formal rebuilding plan. Clearly, these actions would benefit this species. However, the DEIS states that no

additional habitat protection would result from adding wolffish because no additional EFH would result that hasn't already been identified for another managed species.

Although the use of complex bottom habitat is not unique to Atlantic wolffish, its reproductive strategy requires a prolonged period of incubation. According to life history information provided in the DEIS, Atlantic wolffish lay demersal eggs in gelatinous masses that take up to nine months to hatch. With the possible exception of some skate species, this period of external incubation appears to be much longer than any of the managed species in New England. Eggs from ocean pout, which utilize similar habitat to wolffish, hatch after two to three months. Ocean pout biomass is at an all-time low after declining most years since the mid-1980's, despite reductions in fishing mortality. Although the eggs of both of these species are normally deposited in the relative protection of rocky areas, their long incubation periods make them much more vulnerable to disturbance or destruction from mobile gear designed for such bottom, or other human activities that may occur in this habitat.

If the Atlantic wolffish is added to the multispecies FMU--and EPA recommends that it is--then the unique use of designated EFH for the Atlantic wolffish egg lifestage should be given special consideration in future FMPs given the poor status of the stock. The vulnerability of Atlantic wolffish eggs to disturbance from mobile gear should be discussed in the FEIS if this species is selected for inclusion under the multispecies FMU.

Other

The DEIS uses the acronym "VEC" multiple times before the term is defined on page I-692. To ensure its meaning is understood, it would be helpful to have this acronym spelled out in the FEIS at first use in the text, and included under the list of acronyms and the glossary.

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

Sincerely,



Ira W. Leighton
Acting 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.