

Thursday, April 8, 2004

Rolland A. Schmitten
Director

NOAA National Marine Fisheries Service
Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

Dear Director A. Schmitten,

Mr. Rolland A. Schmitten
Director
Office of Habitat Conservation
NOAA Fisheries
F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Schmitten:

I am writing to comment on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish Habitat (EFH) guidelines published in the Federal Register on February 25, 2004. The EFH guidelines should not be changed at this time. Concerns with the EFH program can and should be resolved through better implementation. The current guidelines are sufficient to identify EFH, determine the effects adverse of fishing activities on EFH, and protect EFH from the adverse effects of fishing and non-fishing activities. I would like to respond to some of the standard industry criticisms of the EFH guidelines.

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Protection of habitat for fish populations is critical to their long-term health and it is the law. The EFH provisions in the MSA are mandatory. Therefore, converting the EFH guidelines to non-mandatory guidelines and making the program advisory in nature would be inconsistent with the law and would weaken protections for EFH.

Do not weaken the review process. Because EFH is critical to the survival of marine fish populations, Congress required that all federally conducted, funded, or authorized activities that "may adversely affect" EFH be specifically reviewed in order "to promote the protection of EFH." This is a clear legal mandate, that NMFS does not have the legal authority to modify. Requiring that a "significance threshold" be met before protecting EFH is not consistent with the law and would undercut EFH protection efforts. However, NMFS has made a good faith effort to streamline the protection process so that activities with minimal impacts may be covered under expedited review procedures.

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Thank you for considering my comments.

Sincerely,

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Manuela Vieira-DaPonte
104 Maple Place
Keyport, NJ 07735 - 1919
stonesfan3@aol.com

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Louis De Santis
9277 West Sunrise Blvd
Plantation, FL 33322
desantis@att.net

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William Butler
6810 Florida St.
Chevy Chase, MD 20815
williamabutler@yahoo.com

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peter fallaca
101 hudson street
jersey city, NJ 07302
bob.mcintyre@us.icap.com

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Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
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Dear Director A. Schmitten,

I live in a state (NJ) that depends highly on healthy fish populations and healthy fish habitat. We need protection for both and I'm urging you to do all you can to help. Thank you,
Ms Dusty Stepanski

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dusty stepanski
rt 322 box 97
richwood, NJ 08074 - 0097
primski@voicenet.com

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Denise M. Bomer
3648 North McCord
Toledo, OH 43617
dbomer@rossiassociates.com

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Ernest Lancaster
923 N. Baker St.
Mt. Dora, FL 32757
ernielancaster@earthlink.net

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Gina Lopez
251 Fenwick
Venice, FL 34292
goxhgomag@aol.com

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612 Sycamore Mill Drive
Gahanna, OH 43230 - 2262
ms.maelstrom@whale-mail.com

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Sincerely ,

Marcia Peterson
2113 191st Ave. KPS
Lakebay, WA 98349 - 9277
nwmarci@att.net

Thursday, April 8, 2004

Rolland A. Schmitten
Director

NOAA National Marine Fisheries Service
Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

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Kathy Galligan
4501 Patterson St
Bridgewater, NJ 08807 - 5540
jkhome1@optonline.net

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Edward Scerbo
3602 Homestead Ct.
Peekskill, NY 10566 - 6903
es1000@earthlink.net

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Ronald Holland
30 Sickles Street
New York, NY 10040
geronimo1881@yahoo.com

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Bloomington, IN 47408
abudziak@indiana.edu

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Valerie Cortier
6979 Bluewater Trail
St. Louis, MO 63123
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Kelly Riley
154 Montgomery Drive
Harleysville, PA 19438
khanlon74@yahoo.com

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Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
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208 S.E. Twig Ave.
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SnowLeopard44@webtv.net

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Thank you for considering my comments.

Sincerely,

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Monica Dorning
773 Lyons Rd
Minford, OH 45653
dorning.2@wright.edu

Thursday, April 8, 2004

Rolland A. Schmitten
Director
NOAA National Marine Fisheries Service
Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

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Mr. Rolland A. Schmitten
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NOAA Fisheries
F/HC - EFH ANPR
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Jerry Horner
PO Box 258
Saluda, VA 23149
pirate@visi.net

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Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

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The comment period for these regulations has gone on long enough. Any concerns about the EFH program being too broad can be addressed through better implementation of HAPCs.

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NOAA Fisheries
F/HC - EFH ANPR
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Cristi Reid
8403 Sailboat Lane
Lusby, MD 20657 - 4337
cristireid@hotmail.com

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Marie Louise Morandi Long Zwicker
P.O. Box 230
Sullivan, ME 04664 - 0230
wolfspiritm@excite.com

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Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
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Ruthann Roka
648 Circlewood Drive
Venice, FL 34293
sunshine648@juno.com

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Sincerely,

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Cheri Babajian
10 Del Livorno
Irvine, CA 92614
peacefulpoet@cox.net

Thursday, April 8, 2004

Rolland A. Schmitten
Director
NOAA National Marine Fisheries Service
Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
1315 East-West Highway
Silver Spring, MD 20910

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Mr. Rolland A. Schmitten
Director
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NOAA Fisheries
F/HC - EFH ANPR
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Jay Gassman
1919 Middle Country Road
Centereach, NY 11720
Lihhi@yahoo.com

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Gregory Esteve
3655 North Scenic Highway
Lake Wales, FL 33898
gregatourhouse@hotmail.com

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Office of Habitat Conservation, NOAA National Marine Fisheries Service, F/HC - EFH ANPR
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Kris Acevedo
33 Wave Avenue #3
Revere, MA 02151
brookelynn1971@yahoo.com

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Deborah Albert
5115 W . Poe Ave
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debalbe@yahoo.com

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Elizabeth Dunham
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Mount Arlington, NJ 07856
sirenia88@whale-mail.com

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2944-D Lichen Lane
Clearwater, FL 33760 - 4548
peterc@urbanstudio.com

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487 Wolcott Ave
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sewuph2@aol.com

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Dear Director A. Schmitten,

I am writing to comment on the Advanced Notice of Proposed Rulemaking (ANPR) regarding the Essential Fish Habitat (EFH) guidelines published in the Federal Register on February 25, 2004. The EFH guidelines should not be changed at this time. Concerns with the EFH program can and should be resolved through better implementation. The current guidelines are sufficient to identify EFH, determine the effects adverse of fishing activities on EFH, and protect EFH from the adverse effects of fishing and non-fishing activities. I would like to respond to some of the standard industry criticisms of the EFH guidelines.

The current NMFS process for protecting EFH reflects the intent of Congress, it is flexible, and can succeed. Prior to the inclusion of the EFH requirements in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), fish habitat was not adequately protected from damage and destruction due to human activities. Congress added the EFH requirements to the MSA in 1996 specifically to protect marine fish habitat.

A broad scope of EFH is necessary to protect fisheries. The total area currently identified as EFH is broad because marine species have more than one life stage, and each life stage may depend on a different habitat. The combined geographic distributions of the nearly 1,000 species that are managed in federal fisheries require protection of much of the U.S. EEZ. In addition, there is limited scientific data is on habitat-specific growth and survival, as well as productivity by habitat type. Designated areas are large to compensate for the poor resolution on specific habitat needs. These areas can, and should, be refined as the research progresses, but we cannot afford to wait for scientific certainty to protect threatened fish habitat.

Protection of habitat for fish populations is critical to their long-term health and it is the law. The EFH provisions in the MSA are mandatory. Therefore, converting the EFH guidelines to non-mandatory guidelines and making the program advisory in nature would be inconsistent with the law and would weaken protections for EFH.

Do not weaken the review process. Because EFH is critical to the survival of marine fish populations, Congress required that all federally conducted, funded, or authorized activities that "may adversely affect" EFH be specifically reviewed in order "to promote the protection of EFH." This is a clear legal mandate, that NMFS does not have the legal authority to modify. Requiring that a "significance threshold" be met before protecting EFH is not consistent with the law and would undercut EFH protection efforts. However, NMFS has made a good faith effort to streamline the protection process so that activities with minimal impacts may be covered under expedited review procedures.

The legal definition of EFH was created to protect the entire life cycle of managed fish species. The guidelines must apply to the areas where the fish live during all of their life stages. For many species, that includes coastal, riverine and estuarine waters. Therefore, EFH guidelines must apply where the fish are found, even in state waters.

In conclusion, I am very concerned that this additional ANPR will further undermine NMFS's EFH protection efforts by creating uncertainty regarding the agency's commitment to the program. NMFS should not revise the EFH guidelines; concerns about the program can be addressed through better implementation of the existing guidelines.

Thank you for considering my comments.

Sincerely ,

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