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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

July 14, 2008

Ms. Patricia A. Kurkul
Regional Administrator
NMFS, Northeast Regional Office
One Blackburn Drive
Gloucester, MA 01930

RE: Comments on the UNE/NEA Skate Bycatch Mortality EFP Proposal

Dear Pat:

The New England Fishery Management Council has no objection to the exempted fishery permit for the above-mentioned study as described in the *Federal Register* Vol. 73, No. 131 dated July 8, 2008.

If you have any question please contact me.

Sincerely,

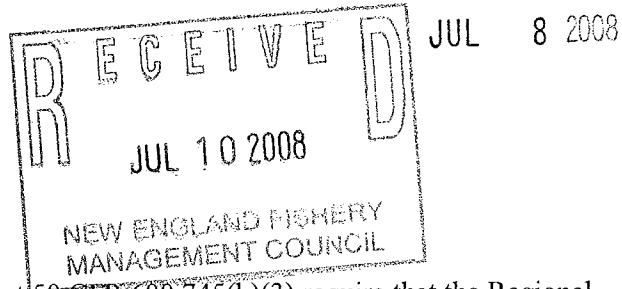
A handwritten signature in black ink that reads "Paul J. Howard". The signature is written in a cursive style.

Paul J. Howard
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Re: Exempted Fishing Proposal

Dear Paul:

The regulations on exempted fishing activities at 50 CFR 600.745(b)(3) require that the Regional Administrator forward copies of an application for exempted fisheries to the Regional Fishery Management Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information: (A) The effect of the proposed Exempted Fishing Permit (EFP) on the target and incidental species, including the effect on any Total Allowable Catch; (B) a citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity; and (C) biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on marine mammals and threatened or endangered species. Therefore, we have attached the Federal Register notice that describes the activities proposed in the application submitted by the University of New England and the New England Aquarium, for two vessels to conduct a skate bycatch mortality study. The EFP would allow these vessels to retain, possess, and land prohibited skate species, and would exempt the vessels from skate possession limits for sampling purposes.

Please respond to the following contact person with any comments you have on the experimental fishing proposal on or before July 23, 2008.

CONTACT PERSON: Emily Bryant
Fishery Management Specialist
Sustainable Fisheries, Northeast Region
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930
Phone: (978) 281-9244
FAX: (978) 281-9135

Thank you for your cooperation.

Sincerely,

George H. Darcy
Assistant Regional Administrator for Sustainable Fisheries

Enclosure



All-Others Rate

For the final determination, we have continued to assign as the all-others rate the simple average of the margins in the petition in accordance with the Department's current practice. See *Preliminary Determination*, 73 FR at 21912, and Comment 2 of the Decision Memorandum accompanying this notice for further discussion.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period October 1, 2006, through September 30, 2007:

Manufacturer/exporter	Margin (percent)
BASF AG	237.00
All Others	150.82

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Germany, entered, or withdrawn from warehouse, for consumption on or after April 23, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart above, as follows: (1) the rate for the firm listed above will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 150.82 percent.¹ These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC

¹ This rate was incorrectly stated as 237.00 percent in the "Suspension of Liquidation" section of the *Preliminary Determination*. See *Preliminary Determination*, 73 FR at 21912.

determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 30, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comments

Issue 1: Selection of the Adverse Facts Available Rate for BASF
Issue 2: Selection of the All-Others Rate
[FR Doc. E8-15458 Filed 7-7-08; 8:45 am]
BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XI83

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by the University of New England (UNE) and the New England Aquarium (NEA) contains all of the required information and warrants

further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Northeast (NE) Skate Complex and NE Multispecies Fishery Management Plans (FMPs). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow two commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable researchers to study the immediate and short-term post-release mortality of skates, would grant exemptions from the regulations as follows: Retaining, possessing, or landing prohibited skate species, and skate possession limits for sampling purposes.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before July 23, 2008.

ADDRESSES: You may submit written comments by any of the following methods:

- Email: DA8-145@noaa.gov. Include in the subject line "Comments on UNE/NEA skate bycatch mortality EFP."
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on UNE/NEA skate bycatch mortality EFP, DA8-145."
- Fax: (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, 978-281-9244.

SUPPLEMENTARY INFORMATION: An application for an EFP was submitted on June 12, 2008, by Dr. James Sulikowski, from the Marine Science Center of UNE, for a project funded by the NOAA Saltonstall-Kennedy Grant Program. The primary goal of this project is to provide data to determine the immediate and short-term survivability of winter, smooth, little, and thorny skates. This research could provide valuable information for future skate management objectives. Results will be provided to the Northeast Fisheries Science Center and the New England Fishery Management Council. Researchers will also disseminate

results to a public audience at the NEA to increase awareness of skate conservation.

Since the stocks of these species are at or near overfished biomass thresholds, and winter and little skates are subject to directed fisheries, research on bycatch mortality of these species is needed. In order to conduct this research, the principal investigators have requested an exemption from possessing and handling prohibited skate species. Additionally, an exemption from skate possession restrictions would authorize project investigators to temporarily possess fish for scientific data collection purposes prior to returning all fish to the sea.

Two vessels would each conduct 50 trips in conjunction with commercial days-at-sea (DAS) trips, with one vessel fishing with commercial otter trawl gear and the other fishing with commercial gillnets. Both vessels would use standard commercial gear. Tows would vary in time among 30, 60, and 120 minutes to account for variations in tow duration that occur under normal fishing conditions. Gillnet soak times would vary but not exceed 24 hr. Two fishing trials would be conducted. The first would occur from September through November 2008. The second would occur from March through May 2009. Research would occur in the inshore and offshore waters off of New Hampshire and southern Massachusetts. These areas support the vast majority of skate landings that can also be accessed during normal fishing operations. All fishing would occur as day trips, and no fishing would occur in closed areas or during rolling closures. Only winter, thorny, smooth and little skates would be used for scientific research purposes. Northeast multispecies would be landed and sold, up to the current DAS possession limits.

The researchers propose fishing a total of 100 sea days; 50 days fishing with gillnet gear and 50 fishing with trawl gear. In other words, each vessel would fish for 25 days during each of the 2 trials (fall and spring). The objective is to assess at least 300 specimens of each of the 4 skate species per season, for a total 1,200 specimens per season, and 2,400 specimens for the entire project. The researchers plan to stagger trials in order to both deploy and retrieve pens on a given day, thus maximizing the number of trials that can be conducted in the proposed number of sea days.

In order to identify possible influences on discard mortality, the following variables would be recorded: Deck-time, season (fall, spring), depth of fishing, air and bottom seawater

temperatures, estimated weight of catch, the total length and gender of skates, and handling techniques (e.g., picked or not picked; duration of deck exposure). When catch is hauled aboard, all skates would be tagged with spaghetti tags. Skates would either be immediately placed into a live well by one of the handling methods (without a pick or with a pick) or remain on the deck for 15 and 30 minutes before being transferred to live wells. While in the wells, specimens would be visually assessed. Any specimens that die prior to placement within a net pen would be placed on ice for subsequent necropsy.

Viable skates would be placed in experimental holding pens to be submerged and deployed to the seafloor for 72-hour trials. A total of 8 net pens would be used, with 20 to 40 skates in each pen. The modified basic shape would form a three-dimensional hexagon with each of the six rectangular sides measuring 5 ft (height) x 6 ft (length). Two PVC skeletons would be used for the bottom and top of each pen. Six vertical sections 5 feet in height would support the structure. The netting covering the pen would consist of 3 or 4-inch diamond mesh tetra twine. The base of each pen would be filled and weighted down with a heavy composite and would be affixed to the seafloor by 2 or 3 40-pound mushroom anchors to reduce the likelihood of pen rollover. Pens would be maneuvered in the water column using bridles secured to whale-safe swivels connected to a main tag line. Each pen would be marked at the surface with a highflyer and buoy.

In order to conduct control trials, UNE proposes to capture a few skates by handlines. If it proves to be unfeasible to capture enough skates by this method to make a statistically robust number of trials, vessels would conduct abbreviated trawls (e.g., 5-minute tows) to obtain minimally stressed controls.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 1, 2008.

Emily H. Menashes

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E8-15375 Filed 7-7-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Foothill/Eastern Transportation Corridor Agency

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of Public Hearing.

SUMMARY: This notice provides information about a public hearing to be held by the National Oceanic and Atmospheric Administration (NOAA) in Irvine, California. The hearing involves an administrative appeal filed with the Department of Commerce by the Foothill/Eastern Transportation Corridor Agency and its board of directors (TCA). This notice also announces the reopening of the public and Federal agency comment period for the TCA Consistency Appeal, beginning July 21, 2008 and running through August 4, 2008.

DATES: NOAA will conduct a public hearing in the TCA Consistency Appeal on July 25, 2008. The hearing will begin at 10:30 a.m. and will continue until 8:30 p.m. Speaker registration begins at 10 a.m. on the day of the hearing.

ADDRESSES: The public hearing and speaker registration will be held at the University of California, Irvine, Bren Events Center, 100 Bren Events Center, Irvine, California 92697. Written comments on issues relevant to the Secretary's decision in this appeal may be submitted at the hearing. In addition, from July 21, 2008 to August 4, 2008, comments may be submitted by e-mail to gcos.comment@noaa.gov or by mail addressed to Thomas Street at the NOAA Office of the General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Thomas Street, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, or Stephanie Campbell, Attorney-Advisor, NOAA Office of the General Counsel, 301-713-2967, or gcos.inquiries@noaa.gov.

SUPPLEMENTARY INFORMATION: On February 15, 2008, TCA filed notice of an appeal with the Secretary of