

# **Final Environmental Impact Statement**

for the

**Generic Essential Fish Habitat Amendment to the following fishery management plans of the Gulf of Mexico (GOM):**

**SHRIMP FISHERY OF THE GULF OF MEXICO  
RED DRUM FISHERY OF THE GULF OF MEXICO  
REEF FISH FISHERY OF THE GULF OF MEXICO  
STONE CRAB FISHERY OF THE GULF OF MEXICO  
CORAL AND CORAL REEF FISHERY OF THE GULF OF MEXICO  
SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC  
COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND  
SOUTH ATLANTIC**



## **APPENDIX J**

### **PUBLIC COMMENTS & RESPONSES TO THE DRAFT EIS**

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The Draft EIS was completed in August 2003 and notice of availability was published in the *Federal Register* on Friday, August 29, 2003 (68 FR 52018). The Public Comment period was initially scheduled to end November 26, 2003 but was extended until December 1, 2003. During the 90 day public comment period, twelve letters were received at NOAA Fisheries. Comment letters were received from one individual, four regional and national environmental organizations (in one letter), one fishing organization, two corporations, two state agencies, and four federal agency offices. This Appendix summarizes all the public comments received in the following table, presents the response to each comment, including what kind of changes were made to the EIS, and is followed by a copy of each of the original letters. The comments in each letter that were addressed are marked with a letter-number code that corresponds to the comment and response in the table.



Commenter	Page (if multiple comments per letter)	Comment number	Comment	Discussion and response
Bonnie New		BN 1	States there are no alternatives to reduce the amount of shrimp fishing activity, and to establish MPAs. States that "the reduction of excess fishing efforts" are reasonable options that should be considered.	Reduction of shrimp fishing activity through gear modifications and closed areas is presented in several alternatives. Text was modified in Section 2 to better explain the varieties of MPAs and which alternatives or actions would create MPAs (see table in Section 2.1.5.3.3). If by "reduction of <i>excess</i> fishing efforts [emphasis added]" the commenter is alluding to limited access systems, these are currently allowed only in order to achieve optimum yield. Other actions and alternatives that limit size of nets, location of shrimp fishing, and prohibit shrimp fishing all reduce shrimp fishing activity to some degree.
NOS, Ocean and Coastal Resource Management		OCRM 1	Include complete information regarding consistency determinations required by 15 CFR 930.39, specifically an evaluation of the applicable enforceable policies of affected state coastal management programs.	The EIS addresses the 1999 Generic Amendment document. Text in Section 3.1.4.6.3, The Coastal Zone Management Act (16 U.S.C. Section 1456(c)) describes Federal Consistency Review procedures, and that a consistency determination by each state will be necessary prior to taking any action on fishery management plan (FMP) Amendments as a result of this EIS. Although some states conducted a consistency review on this EIS, it is not necessary at this time.
US Army Corps of Engineers		COE 1	Concern that EFH changes may increase the Corp's workload, particularly for activities authorized under Nationwide Permits. Want clarification on how the proposed changes will result in less EFH impact without an undue burden to the Corp's process.	Since all marine habitat in the Gulf is currently considered EFH, none of the alternatives would increase the extent of EFH or the Corps workload. This is discussed in Section 4 under EFH-Consequences for the Administrative Environment-Federal acts.
FL Dept. of Environmental Protection, Office of Intergovernmental Programs		FL DEP 1	Several agencies of DEP (FL Keys Aquatic Preserve; FL Department of State/ Div. of Historical Resources) reviewed the document and found it to be consistent with the Florida Coastal Management Program.	Comment noted. No response required.

Commenter	Page (if multiple comments per letter)	Comment number	Comment	Discussion and response
Coastal Environments Inc., on behalf of St. Charles Land Syndicate		CEI 1	Disputes the statement that EFH designation has no direct consequences; claims the EFH has a direct effect because of restriction on land owners to protect private property that may be EFH.	The designation of EFH has only indirect consequences, no direct consequences; consultations that are triggered may or may not lead to restrictions. NOAA Fisheries can only make recommendations or advise other federal agencies (e.g. ACOE); there are no mandatory 'restrictions'. There is a discussion of this topic in Section 4 under EFH-Consequences for the Human Environment-Other affected components of the human environment (Section 4.1.2.2). Additionally, an extensive discussion is presented in the EIS (Section 3.2.1.2.5, Louisiana wetland restoration efforts) on the joint, cooperative federal-state efforts to curb the loss of both fresh and marine wetlands on public and private lands.
US DOI, Minerals Management Service (MMS)		MMS 1	Believe there are inconsistencies among different sections of the EIS dealing with oil and gas exploration (e.g. the artificial reef section [positive] vs. most other sections [negative]). They feel there is too much unsupported speculation on negative impacts.	Section 3.2.2.7.2, Oil platforms, explains that while oil and gas structures can provide artificial habitat for fishes, there are also negative aspects of exploration for these resources that may outweigh the positive. This statement and others regarding the negative aspects of oil and gas exploration and extraction are supported by references in the EIS.
		MMS 2	Believe that the negative aspects of EFH policy are trivialized (e.g. fishermen driven out of business now by more restrictions may not reap long-term benefits of future increases in fish abundance).	Potential negative aspects of EFH policy are dealt with extensively in Chapter 4, under each section discussing consequences for the human environment-economic impacts. The document discusses the fact that if individual fishermen are driven out of business, they will not reap any long term benefits. However, potential future increases in fish abundance due to habitat protections should result in more access to fish by fishermen who remain in fishery, thus realizing net benefits for the fisheries as a whole.
		MMS 3	Believe that statements implicating only dredging and oil and gas exploration in the loss of seagrasses in Mobile Bay is speculative, and should not be included unless more detail and qualification can be provided.	The original reference was reviewed and the statements in Section 3.2.1.1.2 were clarified.

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MMS, cont.		MMS 4	Feel that statements indicating that oil and gas exploration and development represent a threat to green, leatherback, and loggerhead sea turtles are not supported by studies.	The discussion in the pertinent subsections in Section 3.2.6.2 have been reviewed and clarified and list all the known and potential sources of impacts to green, leatherback, and loggerhead sea turtles, and are the conclusions now of the 1998 and 2000 TEWG (Turtle Expert Working Group) reports, as well as a report from the Minerals Management Service. The term “oil and gas exploration” was changed to the broader term “oil and gas activities” to reflect the resource extraction and structure removal activities which are more likely to have negative impacts on sea turtles.
		MMS 5	Information on the Destin Dome and Gulfstream Pipeline needs to be updated.	The information regarding the status of these previously proposed projects was updated in the appropriate subsection (Pipeline, cables and rights-of-way) of Section 3.5.3.1.2.
		MMS 6	The summary of Shinn et al. (1993) is not objective (study referenced as MMS 1993 in the document). For the assessment of the area impacted by drilling, they do not like use of square meters in place of acres.	The discussion referencing the 1993 report is clarified in Section 3.5.3.1.6. Regarding the area impacted by drilling, the Council requested that measurements be as consistent as possible in the EIS. Metric measurements are used for area in most cases; thus the original units (acres) for “area impacted” were converted to a metric unit (m <sup>2</sup> ). The conversion was rechecked and found to be correct.
		MMS 7	A statement regarding the possible chronic oiling of oysters by oil and gas activities is attributed to MMS. They do not believe MMS stated this and think that natural seepage of hydrocarbons is a more likely source of oyster oiling.	The text was reviewed and clarified to include natural seepage of hydrocarbons as one possible cause of chronic petroleum contamination in Section 3.5.3.2.2.3
		MMS 8	Want more detail on the statement regarding oil and gas operations contaminating the pelagic zone.	Discussion in Section 3.5.4.1 was modified to clarify that the pelagic zone contamination from oil and gas operations refers to potential oil spills.
		MMS 9	Feel that statement on increased risks to sensitive Florida habitats if oil and gas operations were ever allowed, should be removed unless it is shown to be the product of an impact analysis and not simply author speculation.	The statement is a valid scientific inference based on the effects of oil and gas operations in other parts of the Gulf with similar characteristics. A recent MMS report was added to the appropriate subsections in Sections 3 and 4 (3.5.4.1, 4.3.8, and 4.3.8.3) as a reference to the potential risks that Florida habitats would be subjected to, if oil and gas exploration and extraction were allowed.

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MMS, cont.		MMS 10	MMS disputes that any studies show that oil and gas operations have adversely affected geological structure and marine habitats of Federally-managed marine habitats. They dispute that oil and gas activities have caused subsidence problems.	There are numerous studies showing the effects of oil and gas operations causing adverse impacts to marine habitats in the Gulf, including subsidence. Even though some of these marine habitats are not in Federal waters, they are relevant to the EIS, since these areas can still be designated as EFH. Additional references to back up these statements were added to appropriate subsections in Sections 3 and 4 (3.2.1.2.3, 3.2.1.2.4, 4.1.1, and 4.2.1.1).
		MMS 11	MMS objects that the large number of oil and gas structures in the Gulf are portrayed in a negative light, when in fact they are beneficial due to their "artificial reef" function. Also, they state that oil and gas operations have not harmed any reef systems in the Gulf.	While the artificial reef function of some oil and gas structures is discussed in Section 3, these structures and particularly pipelines have disturbed, disrupted or destroyed areas of habitat that would be considered EFH in state and federal waters. The paragraph in question was reworded to indicate that sources of impacts include a variety of fishing and non-fishing activities, and does not implicate only oil and gas activities have harmed reef systems.
Continental Land and Fur Co., Inc.		CLF 1	Disputes the statement that EFH designation has no direct consequences; claims that EFH has a direct effect because of restrictions on land owners to protect private property that may be EFH.	The designation of EFH has only indirect consequences, no direct consequences; consultations that are triggered may or may not lead to restrictions. NOAA Fisheries can only make recommendations or advise other federal agencies (e.g. ACOE); there are no mandatory 'restrictions'. There is a discussion of this topic in Section 4 under EFH-Consequences for the Human Environment-Other affected components of the human environment (Section 4.1.2.2). Additionally, an extensive discussion is presented in the EIS (Section 3.2.1.2.5, Louisiana wetland restoration efforts) on the joint, cooperative federal-state efforts to curb the loss of both fresh and marine wetlands on public and private lands.
Monroe County Commercial Fishermen,	p. 1	MCCF 1	Fishing gear sensitivity definitions are confusing, vague, and overreaching.	Too little research has been conducted to have absolute gear rankings. The NMFS consensus table (Hamilton 2000) is the basis of the rankings; with the EIS using the best available information and expert opinion.

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Inc. (MCCF)	p.1	MCCF 2	Rankings of gear sensitivity are incorrect and imply greater than actual impacts, especially for traps on coral and seagrass (Table 3.5.1).	The rankings used in the EIS are the best available, and show the <i>sensitivity</i> of the habitat to each gear (i.e. the potential impact on a habitat, <i>if</i> the gear were used on that habitat). The sensitivities do not account for actual fishing effort of gears on habitats. Table 3.5.1 only portrays sensitivities, <i>NOT</i> actual impacts. Data on effort are “factored in” during the analysis of consequences, and are displayed in figures in Section 9.
	p.2	MCCF 3	Do not include Pulley's Ridge in HAPC Alternative 9 because it had not been discussed prior to selection in the alternative, and did not consider possible adverse economic impacts.	Pulley's Ridge was added to the Alternative by the Council before the Draft EIS was finalized in July 2003. At this time, the inclusion of Pulley's Ridge as HAPC does not necessarily mean that particular fishing activities will be prohibited there, although some restrictions may result in the future.
	p. 2	MCCF 4	The five actions items of Fishing Impacts Alternative 6 discriminate among fishermen based on gear type because they do not consider each gear type equitably.	Different gears have different sensitivities and levels of effort, and therefore have different impacts on habitats. The Council needs the flexibility to selectively manage gears by habitat in order to prevent, mitigate, and minimize damage to EFH as effectively as possible.
Louisiana Dept. of Natural Resources (LA DNR)	p. 1	LA DNR 1	Commend NOAA Fisheries for well written DEIS.	Comment noted. No response required.
LA DNR, cont.	p. 1	LA DNR 2	Support Flower Gardens as HAPC under Alternative 9.	Comment noted. No response required.
	p. 2	LA DNR 3	Agree with EFH Concept 6 for all but Coral FMP, agree with EFH Concept 4 for Coral FMP.	Comment noted. No response required.
	p. 2	LA DNR 4	Agree with Fishing Impact Alternative 6 for all measures except requiring a weak link in tickler chains; recommend analysis of the cost-benefits of various breaking strengths of weak links, and analysis to balance higher fish productivity in habitats with the adverse effects (in terms of industry costs).	The weak link action was suggested near the end of the EIS drafting, by NOAA Fisheries. The EIS considered it to the extent that information was available (i.e. there is no information on how many fisherman may already utilize a weak link). More research would be needed to fully assess costs and benefits; an IR/IRFA would be conducted (to the extent possible) if this became a potential regulation after an FMP amendment process. Text explaining this was added to appropriate Sections 4.3.6.6.1 and 4.3.7.6.

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	p. 2	LA DNR 5	Explain and quantify statements that Fishing impact Alternative 6 would eliminate most harvest of non-federally managed species, eliminate habitat damage from these gears, and shift effort to State waters (Section 4.3.4.6).	The text in question was erroneous and reflected the outcome of Alt. 5, rather than Alt. 6. This section was corrected to appropriately reflect the consequences of Alt. 6 (which is similar to those for federally managed species in section 4.3.3.6).
Gulf Restoration Network (GRN), The Ocean Conservancy (TOC), ReefKeeper International (RKI), Oceana	p. 2-6	GRN1	NOAA Fisheries inappropriately ceded oversight responsibility to the Gulf Council: NOAA Fisheries should retain active control, select the contractor, furnish guidance and participate in the preparation of the EIS, and take responsibility for its scope and contents.	Although NOAA Fisheries did not select the contractor, the Agency (regionally and from Headquarters) has participated actively in the development of the EIS. NOAA Fisheries prepared the initial DEIS outlines, timelines, and costs estimates; reviewed and recommended revisions to the RFP; reviewed and ranked contractor proposals; conducted all scoping meetings with the assistance of Council staff; and evaluated contractor performance and adherence to contract requirements. NOAA Fisheries Staff participated directly in the EIS preparation, provided detailed and frequent technical and legal guidance, directed organizational changes in the structure and content of the EIS, organized monthly conference calls to review progress, and has taken responsibility for the EIS' scope and content. NOAA Fisheries involvement was much more extensive than assumed by the commenters.
	p. 7	GRN 2	Document does not contain the breadth of alternatives or analysis required to comply with NEPA for minimizing adverse fishing impacts and designation of HAPC.	This is a broad statement, see more specific comments and responses below.
	p. 7	GRN 3	Analysis did not follow the five concepts to develop alternatives to minimize fishing impacts. Gear prohibitions provided are limited to only a small range of habitats affected by the gear. Also cites lack of protection for hard bottom and SAV.	The bundles did not include all potential combinations of gear prohibitions on various habitat types, but the commenters' example action of prohibiting bottom longlines or traps on hard bottom was a listed action and is included in Alternative 5. The bundles were discussed as initial proposed groupings, and the Council and NOAA Fisheries had the ability to pick, choose, or reorganize the individual actions during the EIS drafting process, as well as during the future FMP amendment process. Alternatives 6 and new Alternative 7 were created in this fashion. Reorganization of bundles could have resulted in any combination of actions, and the analysis provided will allow such 'repackaging' during the Amendment process as well.

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GRN,TOC, RKI, Oceana, cont.	p.8, 11-12	GRN 4	The analysis did not sufficiently use the precautionary approach or specifically use MPAs as an approach to develop alternatives, or to protect habitat other than coral.	Although the term MPA was not explicitly used in the draft, there are many types of marine protected or managed areas, and these other terms were used. MPAs are more explicitly described in the Final EIS. Text was added to clarify which actions may result in a type of MPA in the table in Section 2.1.5.3.4. Closing types of habitat to specific gears (or all gears) is in fact the creation of a type of MPA, and is one outcome of Preferred Alternative 6. Specific actions in other alternatives also result in MPAs. A "framework" alternative to design a <i>process</i> for establishing MPAs was initially considered, but considered too broad and not specific enough for analysis in this EIS. No recommendations for specific MPA sites were received during development of the Draft EIS. Additionally, designation of MPAs usually requires extensive study (years of time), establishment of specific criteria, and EIS review on their own.
	p. 8	GRN 5	None of the Alternatives presented (in bundles) include limitations on bottom longlining on any habitat but coral. Not all the potential impacts by gear are reflected or mediated by actions in the bundled alternatives. Concern that not enough protection is given to hard bottom or SAV.	Alternatives 2, 3 and 4 each list a limit in set length and number of sets/day for longlines on hard bottom; Alternatives 4 and 6 prohibit the use of bottom longlining on coral; and Alternative 5 prohibits the use of bottom longlining on coral and hard bottom. Additionally, the Council added a new Alternative 7 which focuses on minimizing fishing impacts on live hard bottom. With regard to SAV, fishing impact alternatives were limited to Federal waters, not state, although recommendations by the Council and NOAA Fisheries encourage states to establish protections from gears that cause damage to EFH. Finally, bottom longlining did not receive a higher sensitivity than "minor" for any habitat but coral.
	p. 8	GRN 6	Range of fishing impact alternatives is too narrow and will not protect important fish habitat.	The alternatives ranged broadly from 'no change' to fully prohibiting all gear types. The analysis contains enough information, such that during the amendment process for each FMP, alternatives can be refined or changed. (See also the discussion to comment GRN 3)

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GRN,TOC, RKI, Oceana, cont.	p. 8-9	GRN 7	Of the five concepts to develop fishing impact alternatives, concepts 4 and 5 were mostly ignored, resulting in a lack of sufficient alternatives to protect important habitats, and to recognize ecosystem management requirements.	Effort can be, and is, reduced indirectly through proposed alternative actions in this EIS and modifications to text in the EIS reflect this. Some of the gear modifications and restrictions would reduce fishing effort. Prohibiting gear on specific habitats was included in potential alternatives and not ignored (see Alternative 5, and parts of other alternatives). [See also response to comment GRN 11, with regard to other effort reduction mechanisms.]
	p. 10-11	GRN 8	Do not feel EIS embraces ecosystem management, makes risk adverse decisions, and is precautionary enough. Formulation of alternatives for minimizing impacts of fishing does not mention precautionary policy objectives.	Although these are not issues required by NEPA or the CEQ regulations, an attempt is made to be precautionary. A full suite of potential actions were developed and assessed. Completely closing habitats to specific gears (or all gears) is as precautionary as possible.
	p. 12	GRN 9	Available information (including maps created) was not used to develop potential alternatives, particularly for MPAs. References map 3.5.16a.	The information was used. The map in question, depicts only one variable, the potential sensitivity to gear, but does not include any reference to known fishing effort. The areas most vulnerable are not fished (and also rank low for habitat use by most FMP species (except potentially coral). Other maps in the EIS portray fishing effort by various gears, and were taken into account in the development of alternatives.
	p.13-14	GRN 10	Concern expressed over present example of trawling alternatives, lack of considering impacts on SAV, and lack of a specific alternative to prohibit trawls only on SAV. Similar complaint about other types of habitats and other potential closures. Prohibition of longlines, traps, etc.	The examples discussed were presented as potential actions; closures are part of alternatives, and can be considered separately. This was always an option open for discussion by the committees, the Council or NOAA Fisheries. The potential individual actions are endless, and the scope of the review had to have some bounds. NOAA Fisheries requested that actions be bundled, and 7 separate bundles of actions range from 'no action' to full prohibition. With regard to fish traps, they are being phased out completely within the next few years, and were considered 'status quo', not needing further restrictions. Text was added to Section 2.1.5.3.3.2 regarding the fish trap phase-out.

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GRN,TOC, RKI, Oceana, cont.	p. 14-15	GRN 11	Lack of meaningful effort reduction alternatives; should discuss straight forward programs such as ITQ; lack of such alternatives likely due to politically volatility.	ITQs were not considered as an alternative based on General Council comments: limited access systems have restrictive purposes (uses) and are not appropriate to this EIS. The discussion about the use of such fishery management measures through other amendment processes (i.e. reef fish) is presented in the cumulative impacts section. The limitations of using ITQs as an effort reduction mechanism for the purposes of this EIS is discussed in Section 2.1.5.3.3.
	p. 16	GRN 12	DEIS contains little analysis of, and no alternatives for, dealing with removal of prey species.	There is analysis of prey removal due to directed fisheries (e.g. menhaden) in Section 3.2.5.3.6, and the best available science has not determined that it harms other managed or unmanaged fisheries. To the extent possible, due to the limited scientific information available, predator-prey interactions are discussed in this and other sections. NOAA Fisheries disagrees that this is not adequately discussed. Proposed actions in alternatives are also restricted to fisheries in federal waters, and not applicable to those in state waters.
	p. 16-17	GRN 13	The DEIS did not contain sufficient analysis of cumulative impacts even though information exists in the document to do so. "The document states plainly that cumulative impacts of fishing gears were not considered..."	Cumulative impacts of fishing and non-fishing impacts are considered and discussed in Section 4. Cumulative impacts of gears are not quantified, because this was not possible: effort data are in very different units for different gears, and information on where fishing actually occurs is extremely lacking. Existing effort data for most fisheries lacks precision regarding the footprint of fishing gears (the area of habitat actually impacted by the gear). See the discussion in Section 4.3.8.1.
	p 17	GRN 14	HAPC alternatives do not provide an adequate framework for identifying known and future areas that would require designation under the Final Rule.	The intent of the EIS is not to provide a framework for identifying potential future areas as HAPC; the framework is provided by the EFH Rule. Identifying EFH and HAPC is an ongoing process. The Council and NMFS can add (or remove) HAPC at any time by any mechanism available regardless of how it is addressed in the EIS.

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GRN,TOC, RKI, Oceana, cont.	p. 18-20	GRN 15	Insufficient basis for not considering HAPC Alternative 4; neither rationale is sufficient to justify removal of Alternative 4.	Habitat types used for reef fish spawning are included in the ecological function criteria that was used in Alternative 8. However, the Alternative 8 analysis resulted in highlighting sites with multiple ecological functions, or for multiple FMPs, not in specific sites that only serve as reef fish spawning locations. The Council has provided protection of several reef fish spawning sites in the past, and decided to reinstate HAPC Alternative 4 as an active alternative. Sites which could potentially be chosen as HAPC based on a spawning function are described in Section 2 and mapped in Section 9.
	p . 21	GRN 16	Important coral areas not identified as HAPC: Sonnier, Aldercice, McGrail, Geyer, and Bright Banks and deep <i>Lophelia pertusa</i> coral.	The Council chose to add Sonnier, Aldercice, McGrail, Geyer, and Bright Banks to HAPC Alternative 9. Information on <i>Lophelia</i> is just now being documented, but no reliable maps yet exist, thus was no <i>Lophelia</i> sites were added at this time. The Council recognizes the importance of <i>Lophelia</i> habitat and HAPC can always be added by FMP amendment when new information is made available.
	p. 22	GRN 17	Important SAV and marsh areas are not identified as HAPC; recommending including all SAV and marsh, and <i>Halophila</i> meadows.	NOAA Fisheries reiterated that the intent of the rule was <i>not</i> to identify broad areas or all areas of one type of habitat, such as “all SAV” and “all marsh,” as HAPC. Sites were to be extremely specific, mappable, and definable. This is explained in Section 2.1.4.1. <i>Halophila</i> may be considered as HAPC, but extent of these meadows is unknown, as is their ecological value for any of the managed species.
	p. 23	GRN 18	HAPC alternatives do not include management measures of fishing activities for protection of habitat.	Although there is no additional regulatory protection afforded to HAPC above that of EFH designation, the preferred Alternative 6 for mitigating fishing impacts does include some management measures specific to HAPCs. HAPC designation is not a mandatory element of the EFH rule and management measures are not required for HAPC.
US Environmental Protection Agency (EPA)	p. 3	US EPA 1	Fine technical analysis of describing and identifying EFH.	Comment noted. No response required.

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USEPA, cont.	p. 4	US EPA 2	DEIS contained little documentation substantiating projected increased agency costs; suggest checking experience from other Councils.	The experience in the region is that consultations have been incorporated into already required documents (notices, EAs, etc) and employ information already required as a part of project review. Any added time or cost is so minimal that it can not be quantified with any level of confidence. This is clarified in Section 4.1.3.1, and is included in the review conducted as part of the review of the EFH final rule.
	p. 4	US EPA 3	Indicate that administrative costs may be reduced by considering "abbreviated consultations" where allowed (50CFR600.920(h)).	A discussion of "abbreviated consultations" has been added to the EFH-Consequences for the Administrative Environment-Federal acts (Section 4.1.3.1).
	p. 5	US EPA 4	Suggest checking with other Councils to see if more strict consultative reviews and conservation recommendations occurred as a result of EFH.	This has been evaluated on several occasions and NOAA Fisheries couldn't document a significant change in the number of reviews or the quality of recommendations. This issue has been clarified Section 4.1.3.1.
	p. 5	US EPA 5	In addition to NMFS having no authority to manage fishing gear in state waters, state, local and non-federal entities are not required to consult with NMFS regarding effects of actions on EFH.	Text to this effect has been added to appropriate subsections of Chapters 2, 3, and 4.
	p. 6	US EPA 6	Fishing Impact Alternative 6 does not seem adequate to protect habitat from trawling and dredging.	The Council has weighed all the information and considers Alternative 6 to be the Preferred Alternative for minimizing fishing impacts.
	p. 6	US EPA 7	Consider how alternatives for MPAs can be used to minimize impacts of fishing, in accordance with EO 13158.	Please see discussion and responses to comments BN 1 and GRN 4.
	p. 6	US EPA 8	Consider advantages and disadvantages of habitat creation and artificial reefs as a means to enhance and conserve EFH.	Artificial reefs, in and of themselves, are not considered as EFH. The value of artificial reefs in helping to increase populations of fish is still being debated. Additionally, 'creation' of artificial habitat is not a means of conserving habitat that already exists. There should not be a habitat creation alternative without specific examples or sites determined (or reliable knowledge of how much artificial or created habitat becomes "too much"). Text has been added to the "artificial reef" discussion of Section 3.2.2.7.1 to clarify this issue.

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USEPA, cont.	p. 7	US EPA 9	Consider how rotational management can be used to protect and enhance EFH.	There is limited information regarding the benefits of rotational management for marine species, but it is limited to sessile (or nearly sessile) organisms. The efficacy depends on the likely recovery times of habitats from specific types of impacts, which is not currently well known or documented. If management can allow a habitat to recover before it is next impacted this might be of value, however, it might still result in a habitat being in a permanent state of degradation (i.e. if a habitat is impacted again, more or less, as soon as it has recovered). How much habitat under a particular rotational scenario is functioning fully as EFH (i.e. not impacted) would need to be known as well as how much habitat a managed species needs to meet optimal productivity levels, such that habitat is not limiting. This is not known at present due to lack of data on the relationships between habitat and productivity (as stated in the EIS).