Ms. Kisha Santiago-Martinez  
Deputy Secretary of State  
Office of Planning, Development &  
Community Infrastructure  
New York Department of State  
One Commerce Plaza, 99 Washington Ave.  
Albany, NY 12231-0001

RE: Federal consistency determination for Habitat Clam Dredge Exemption Framework

Dear Ms. Santiago-Martinez:

We are advising the State of New York of a federal action and the determination of NOAA’s National Marine Fisheries Service (NMFS) regarding the consistency of this action with the enforceable policies of the New York Coastal Zone Management Plan (CZMP).

The New England Fishery Management Council created the Great South Channel Habitat Management Area (HMA) as part of its Omnibus Habitat Amendment 2 (OHA2), which prohibited the use of all mobile bottom-tending fishing gear in the area. The HMA contains complex benthic habitat that is important for juvenile cod and other groundfish species, but also susceptible to the impacts of fishing. The OHA2 included a 1-year delay that allowed the surfclam fishery to continue fishing with hydraulic clam dredges in the HMA to give the Council time to determine if a more long-term exemption is warranted. The 1-year delay ended on April 9, 2019, and the HMA is now closed to all mobile bottom-tending fishing gear.

The Habitat Clam Dredge Exemption Framework would allow the surfclam fishery to operate hydraulic dredge gear year-round in two small areas (McBlair and Fishing Rip) and seasonally in a third area (Old South) within the HMA. Mussel dredge fishing would also be allowed only in these exemption areas. Two additional areas (Rose and Crown and Davis Bank East) were previously important to the surfclam fishery and may be the focus of research and potential future exemptions. See the map image below for the exact location of these areas.

Pursuant to provisions of 15 CFR 930 et seq. and section 307 of the Coastal Zone Management Act of 1972, as amended, I have preliminarily determined that the Habitat Clam Dredge Exemption Framework is necessary under the Magnuson-Stevens Act, and consistent to the maximum extent practicable with the enforceable policies of your state’s CZMP. In accordance with the provisions of 15 CFR 930.41, I request that you advise me of your agreement or disagreement with my determination within 60 days. If I do not receive a letter of concurrence within this time frame, I will presume that you concur with my preliminary consistency determination.
Thank you for your assistance and cooperation with this matter. The environmental assessment for the Habitat Clam Dredge Exemption Framework describing the action, the alternatives, and the impacts of the proposed and alternative measures is available from the Council here: https://s3.amazonaws.com/nefmc.org/190722-Final-Clam-Dredge-Framework.pdf.

We expect to publish a rule proposing the Habitat Clam Dredge Exemption Framework’s implementing regulations in the Federal Register this summer. If you have any questions regarding this action, please contact Douglas Potts in the Greater Atlantic Regional Fisheries Office, Sustainable Fisheries Division, at 978-281-9341 or douglas.potts@noaa.gov.

Sincerely,

Michael Pentony  
Regional Administrator

Enclosure

cc: Mr. Matthew Maraglio