



## New England Fishery Management Council

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Frank Blount, *Chairman* | Paul J. Howard, *Executive Director*

June 30, 2006

The Honorable Richard Pombo  
United States Senate  
2411 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Pombo:

The New England Fishery Management Council met on June 13-15, 2006 and reviewed H. R. 5018, the *American Fisheries Management and Marine Life Enhancement Act*, as amended on May 17, 2006. Remarks were developed for provisions on which the Council had comments. With some exceptions, it did not comment where there was agreement and/or no recommended change. We appreciate the opportunity to provide input and intend to follow reauthorization as it continues to progress through Congress.

### **Comments on Provisions of H. R. 5018**

**Science-Based Improvements to Management – Pages 4-5.** Concerning adopting total allowable catch limits, the New England Council recommends consideration be given to omitting lines 18-21 on page 4, and lines 8-11 on page 5 (beginning with the phrase “*which shall not exceed...*”). We believe the Councils and not the SSCs are in the best position and vested with the authority to review scientific advice (which at times may be conflicting) and weigh that information against social and economic concerns, as well as any other extenuating circumstances that may affect decision-making. In keeping with its past positions, the Council believes *consideration* of the SSC’s recommendations is the appropriate pathway to determining total allowable catch limits of other annual harvest effort control limits.

**Compensation for Service on SSCs and Advisory Panels - Page 6, Line 21.** The Council questions the need to compensate for service on SSCs and advisory panels, but acknowledges that in certain geographic areas some Councils may find it necessary. If included, this provision should be discretionary. As with the Senate bill, our members continue to believe this language highlights the need for adequate funding for both the Secretary and Councils.

**Scientific and Statistical Committees – Page 7, lines 1-4.** Because of the composition of the New England Council’s SSC, as well as the Council meeting structure, we do not believe the requirement to hold SSC meetings in conjunction with Council meetings is a practical undertaking. We recognize the bill states this procedure may be undertaken to the extent practical, but wish to articulate our concerns about the complex nature of our management plans and, by extension, the interactive discussions at our

meetings. Our members are concerned about how to consider potentially impromptu scientific information under such circumstances.

**Recreational Data Collection – Page 13, Line 1-3.** Concerning the prohibition on fees for recreational fishermen for the purposes of data collection, the Council suggests there be no prohibition on fees until a system is developed to collect this and other information necessary for good fisheries management. Decisions about required fees for any or all user groups could be made when more detailed information is available.

**Council Training Program - Page 21, Lines 14-17.** Regarding Council training, our members generally support the development of a training program but not only for newly appointed Council members, and not as a condition of membership or voting. Instead, we suggest striking the words “*required training*” and recommend the training course be available to (in addition to the groups mentioned in the bill) “new and existing Council, committee, or advisory panel members as well as Council and state agency staff, as resources allow.” We further suggest that the bill require that the Secretary fund all the activities associated with this initiative.

**Council Operations and Authorities - Page 19, Lines 15-23.** The Council suggests that the Governors already have the authority to submit names from the various groups and sectors that are listed in the bill and recommends this section be deleted, as it appears to be unnecessary.

**Framework Authority – Pages 25-26.** Given the Act as written does not expressly address this mechanism for making more expeditious changes to fishery management plans, the Council fully supports inclusion of this language.

**Regional Ecosystem Research – Pages 29–31.** In keeping with past positions on ecosystem-based management, the Council fully supports this section of H.R. 5018.

**Limited Access Privilege Programs (Eligibility) – Page 35, Lines 3-8.** The text of the bill refers to residents of “*the management area of the relevant Council*”. The Council believes the intent is that the phrase be synonymous with the term “management unit” described in fishery management plans --- the geographic region which a species inhabits and from which it is harvested. The Council notes that the management unit can be very different from the management area of the Council. The language proposed could preclude fishermen who reside in various ports within the range of the resource in question, but in another Council’s “management area”, from participating in a limited access privilege program. Our comment also applies to page 37, Lines 11-12.

**Limited Access Privilege Programs (Eligibility) – Page 35, Lines 14-16.** The Council notes that an overall objective in a number of New England fisheries is to reduce participants. Fishing communities are grappling with this issue as they consider industry-funded vessel buyouts and other scenarios. If this provision is retained in the bill, it could have the effect of increasing participation in this region’s fisheries, possibly exacerbating an already serious problem to which there are few effective solutions without causing economic hardship and social dislocation. To that end, the Council recommends striking the words “*and those who have not historically had the resources to participate in the fishery*”.

**Marine Protected Area Authority – Page 24, Line 10.** The Council recommends that the language in the bill might be strengthened by eliminating the word “*all*” in Line 10. We suggest that removal of this word allows the Councils greater flexibility to close any or all fisheries if an area is designated as a Marine Protected Area.

**Limited Access Privilege Programs, New England Referendum. – Page 43, Lines 4-18.** As a result of a formal vote at its January/February 2006 meeting, the New England Council agreed: that a uniform standard for all Councils should apply with respect to conducting referenda to approve or implement fishery management plans that create individual fishing quota programs. H.R. 5018 requires approval of more than two-thirds of those voting in the referendum. Consistent with its previous position on this issue, the Council comments that the fishery management plan process allows for broad public participation and promotes industry dialog during consideration of any issue. This is sure to occur on a subject that has historically generated a high level of interest and industry reaction in New England, reducing the need for a referendum.

**LAPP - Auction and Other Programs – Page 46, Lines 9-13.** The Council recommends that if a royalty program is instituted, revenues that are deposited in the Limited Access System Administrative Fund should be made available to fund related management initiatives.

**Limited Access Privilege (LAPP) Defined – Page 51, Lines 16-20.** In the definition of Limited Access Privilege, the Council recommends adding the phrase directly allocated so that the sentence reads “to harvest a directly allocated quantity of fish...”. We urge you to clarify that it is important that limited access privileges do not apply to a quantity of fish that has been indirectly allocated through input controls, such as days-at-sea for example.

**Observer Program Funding Mechanism, P. 57. Line 5.** So that a range of funding mechanisms may be used, the New England Council recommends inserting the language “In addition to Federal appropriations”, following (1) *In General - The Secretary may establish a funding mechanism to cover the cost of an observer program...* We point out here that the observer program in New England is woefully underfunded and that tools such as Total Allowable Catch set-asides to fund observers, such as exists in the Council’s Sea Scallop Fishery Management Plan, is essential.

**Fishery Observer Fund: P. 58, Line 8-18.** The Council supports the establishment of the Fund but it believes it should be available without appropriations (see lines 13-14; *The Fund shall be available subject to the availability of appropriations,...*).

**Compliance with the National Environmental Policy Act – Pages 60-61.** The Council is appreciative of the efforts of members of the House to include this provision which allows the Secretary to review fishery management plans for consistency with NEPA if s/he determines that sections 303 and 304 of the Act are consistent with certain provisions of NEPA.

**Duration of Measures to Rebuild Diminished Fisheries - Pages 63-64.** In keeping with the Council’s comments on S. 2012, the Council recommends supporting the language in paragraphs I-IV in their entirety.

**New Prohibited Acts - Page 64, Line 12 (6).** The prohibition to sell or purchase any fish caught in recreational fishing could apply to the recreational giant bluefin tuna fishery --- in which vessels are federally permitted to sell their catch. Because of this potentially negative outcome, the Council recommends instead that this language be omitted and reconciled in individual fishery management plans on a fishery-by-fishery basis and not in legislation.

**Overcapitalization - Page 70, lines 17-20, and concerning the Basis for Recommendations.** The Council recommends inserting the language “including, but not limited to” in paragraph (A) so that the phrase might read “*the most cost effective means of achieving voluntary reduction in capacity for the fishery, including, but not limited to the potential for industry funding*”. The intent of the Council is to express support for additional sources of funding should they become available.

**Consideration of Economic Impacts - p. 72 lines 4-7.** The Council recommends adding language to apply to paragraphs (1) through (3) *taking into consideration the “best available” information on the economic impact of harvest restrictions...* Our purpose is not to avoid this undertaking but to reduce overly burdensome fishery management plan requirements that do not reflect the actual circumstances in the fishery because neither current nor comprehensive information is available.

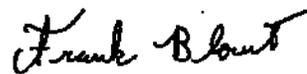
## Other Issues

**Section 315, Page 61.** Initially this section contained a reference concerning authority to manage fish in the nation’s National Marine Sanctuaries. It appears the language was omitted during the course of amending H.R. 5018. The Council supports language drafted by the Council Chairs on this issue last spring. That group stated “fishery management authority in NMSs, for all species of fish as defined in the current MSA, shall be under the jurisdiction of the Regional Councils and the Secretarial approval process as described in the current MSA”. The Council respectfully requests that consideration be given to once again including such a provision.

In closing, I highlight a remaining New England Council concern, one that was also expressed by the Council Chairs last spring. To adequately address previous as well as any new mandates associated with MSA reauthorization, the Councils must have the funds to support its activities. As I have stated previously, this has been a chronic problem for a number of years in the New England region, particularly during a period in which the workload has increased exponentially. Management initiatives have been postponed and the quality and timeliness of work products has been affected and counterbalanced only by staff diligence.

The Council respectfully requests that Congress address this very pressing issue and provide sufficient funding for mandated activities and any new initiatives that are being contemplated. Thank you for considering our comments. Please do not hesitate to contact us if you have any questions or if we can be of some assistance.

Sincerely,



Frank Blount  
Chairman

cc: New England Congressional Delegation