

Correspondence



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C.M. "Rip" Cunningham Jr., *Chairman* | Paul J. Howard, *Executive Director*

February 16, 2012

Dr. William Karp
Acting Science and Research Director
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

Dear Bill:

As you know, at its January 31 – February 2, 2012 meeting the Council passed the following motion concerning Gulf of Maine (GOM) cod and the 2011 assessment:

that the Council task the Scientific and Statistical Committee (SSC) with developing work plans for addressing all four items listed as warranting further investigation (stock structure, discard mortality, incorporating MRIP data and CPUE data), to submit those work plans as quickly as possible to the NEFSC and request that Dr. Butterworth's analysis be reviewed by the SSC.

I am writing to ask that you coordinate the NEFSC's activities with our SSC and staff in developing input for the updated GOM cod assessment. This coordination will help ensure that the Science Center's timetable for producing the updated assessment will take into account the Council's tasking to the SSC as well as the Council's timelines.

The Council has already directed the SSC to begin developing the work plans to prepare input to the updated assessment. In addressing the NEFSC assessment plans, you should know that the updated GOM cod assessment will have to be completed as early in August as possible. Accordingly, the SSC will have to make an ABC recommendation by early September so that the Groundfish Plan Development Team can prepare the necessary documents for Council approval in November. The Council will need adequate time to develop management measures, provide the required public notification and accommodate public input.

There may be other timing issues for the Council, the Science Center and the Northeast Regional Office to resolve at the upcoming Executive Committee, such as addressing potential management actions by the Council or NMFS interim measures that result from the February 2012 groundfish assessments.

With this in mind, I would like to invite you and Chris Legault to our February 28, 2012 Executive Committee meeting at the Sheraton Colonial Hotel in Wakefield, MA to discuss these issues in more detail. I look forward to seeing you in late February. Please do not hesitate to call me if you have any questions.

Sincerely,

Paul J. Howard
Executive Director

cc: Chris Legault, NEFSC



New England Fishery Management Council

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C.M "Rip" Cunningham Jr., *Chairman* | Paul J. Howard, *Executive Director*

February 16, 2012

Dr. Chris Legault
NOAA/NMFS Northeast Fisheries Science Center
166 Water Street
Wood Hole, MA 02543

Dear Chris:

I understand that SSC work is underway to respond to the motion passed by the NEFMC at its January 30 - February 2, 2012 meeting:

that the Council task the SSC with developing work plans for addressing all four items listed as warranting further investigation (stock structure, discard mortality, incorporating MRIP data and CPUE data), and to submit those work plans as quickly as possible to the NEFSC and request that Dr. Butterworth's analysis be reviewed by the SSC.

For your information, I have enclosed a letter to the Acting Director of the Northeast Fisheries Science Center and ask you to coordinate SSC activities with the NEFSC to ensure timely input to the updated GOM cod assessment. We expect the GOM cod assessment update to be completed as soon as possible in August 2012. With this in mind, we suggest you pay priority attention to the items in the motion like MRIP data and the review of Dr. Butterworth's analysis that can be accomplished in time to input the NEFSC GOM cod update assessment.

Additionally, as a committee of the Council, the SSC should transmit their work products to the Council office and then we will immediately forward them to the NEFSC.

Please do not hesitate to call me if you have any questions.

Sincerely,

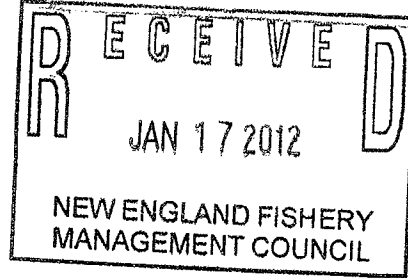
Paul J. Howard
Executive Director

enclosure



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

JAN 13 2012



Rip Cunningham, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

Dear Rip:

We are requesting that the New England Fishery Management Council (Council) clarify the applicability of the rockhopper and roller gear restrictions first established by the Council in 1999 under Framework Adjustment 27 to the Northeast Multispecies Fishery Management Plan. Did the Council intend to apply this restriction to all trawl vessels operating in the nearshore Gulf of Maine (GOM), or just vessels issued a limited access Northeast multispecies permit?

According to Framework Adjustment 27, these restrictions were meant to reduce fishing mortality on GOM cod by reducing the potential for larger vessels to fish inshore. They may also be protective of fish habitat within the nearshore GOM. Although the framework document does not specifically identify vessels that would be subject to these restrictions and only references trawl vessels, the economic impact analysis conducted for this action states that the gear restrictions apply only to groundfish vessels. In contrast, the regulations codifying the rockhopper and roller gear restrictions (50 CFR 648.80(a)(3)(vii)) state that any trawl vessel operating in the Inshore Restricted Roller Gear Area may not use any rockhopper or roller gear in excess of 12 inches in diameter.

Thank you for your help clarifying this provision. If you have any questions regarding this letter, please contact the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,

Daniel S. Morris
Acting Regional Administrator



cc: TM, CBR (1/17)



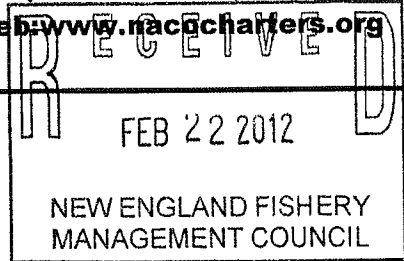


National Association of Charterboat Operators

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P.O. Box 2990 Orange Beach, AL 36561
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Bobbi M. Walker
Executive Director

Bob Zales, II
Panama City Boatman Association
President

Ed O'Brien
Maryland Charter Boat Association
First vice-president

Tom Becker
Mississippi Charter Boat Captains
Second vice-president

Gary Krein
Charterboat Assoc. of Puget Sound
Secretary

Ron Maglio
Michigan City Charter Boat Assoc.
Treasurer

Member Associations :

Alaska Charter Association
Beach Haven Charter Fishing Association
Cape Cod Charter Boat Association
Captree Boatman Open & Charter Boats
Charterboat Association of Puget Sound
Chicago Sportfishing Association
Coastal Bend Guides Association
Deep Creek Charterboat Association
Destin Charterboat Association
Eastern Lake Erie Charter Boat Assoc.
Florida Guides Association, Inc.
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Golden Gate Fishermen's Association
Greater Point Pleasant Charter Boat Assoc
Hawaii Fishing & Boating Association
Homer (AK) Charter Association
Indiana's North Coast Charter Association
Islamorada Charterboat Association
Kenosha (WI) Charter Boat Association
Maine Association of Charterboat Captains
Marco Island Charter Captains Assoc.
Maryland Charterboat Association
Michigan City Charter Boat Association
Mississippi Charterboat Captains Assoc.
Northeast Charterboat Captains Assoc.
Northern Neck Charter Captains
Panama City Boatmen Association
Petersburg (AK) Charterboat Association
Port Aransas (TX) Boatmen, Inc.
Prince William Sound Charter Boat Assoc.
Seward Charterboat Association
Sitka (AK) Charter Boat Operators Assoc.
United Boatmen of New Jersey
Virginia Charter Boat Association
Waukegan Charter Boat Association
Westport Charterboat Association

February 21, 2012

New England Fishery Management Council
ATT Paul Howard
50 Water Street Mill 2
Newburyport, MA 01950

Sent via Fax 978-465-3116

Dear Mr. Howard,

NACO is a national non-profit organization that represents over 3,000 owner/operators across the United States. We are the premier voice for charter boats across the U.S. and while NACO does not have any particular comments for the vision of the management of the particular species included, we defer to the comments from our members in the region; we do have specific comments on the vision of overall fishery management of all species and marine resources. NACO has a National Policy on two specific issues facing our nation today, catch shares and sector separation and the National Ocean Policy.

Our members do not support the creation and/or implementation of any new catch share programs on the East and Gulf Coasts nor do we support separation of the recreational fishing sector. Catch share/sector separation programs are not biological, they are simply economic plans to reduce fleet capacity while doing very little to benefit the resources. While discard mortality may be slightly reduced in directed fisheries the discard mortality is expanded in the peripheral fisheries and in many cases increases causing more harm to the resource. There have been no unbiased comprehensive studies that provide the real impact of catch share programs on the resource, fishermen, their families, the supporting businesses, and communities. Without an unbiased comprehensive study to provide such information we have no true indication of what catch shares programs do. Sector separation efforts in the recreational fisheries have simply created further division among fishermen while serving no purpose in expanding fishing days or flexibility in seasons. We recommend your vision statement to include a policy on no new catch share and sector separation programs until such a study is completed.

The National Ocean Policy is an extremely controversial and potentially harmful policy to our future of fishing and boating. This policy has no congressional oversight and is being fast tracked underground with little stakeholder involvement. The potential power granted to the National Ocean Council by an Executive Order is extremely troublesome to fishermen, boaters, and other stakeholders. This policy must be placed on hold until more information and more involvement by stakeholders is allowed. Marine spatial planning efforts under this policy exceed the need while most regions already have such efforts under essential fish habitat and MPAs. We do not need more federal government bureaucracy involved in our marine resource management. We recommend you include a policy of no support for the National Ocean Policy in your vision statement.

Should you have any questions, please contact us.

Sincerely,

Robert F. Zales, II

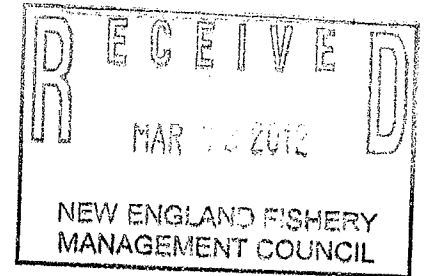
Capt. Robert F. Zales, II
President

cc: TN; CBK, Council (2/24)



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

MAR - 9 2012



Mr. Rip Cunningham, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear Rip:

I am pleased to inform you that on March 8, 2012, NOAA's National Marine Fisheries Service (NMFS) approved Amendment 17 to the Northeast Multispecies Fishery Management Plan (FMP). As you know, Amendment 17 explicitly defines and facilitates the effective operation of state-operated permit banks in the Northeast Region. Through this action, the states will be able to effectively operate permit banks without first forming or joining a groundfish sector. Amendment 17 authorizes state-operated permits banks to be allocated annual catch entitlement (ACE) and to transfer that ACE to qualified groundfish sectors.

NMFS published a proposed rule to implement Amendment 17 on December 22, 2011, under RIN 0648-BB34, and we expect to have a final rule effective by May 1, 2012.

The regulations within the *proposed* rule at 50 CFR 648.87(e)(6) stated that "if additional funds from any source become available to a state-operated permit bank, the state-operated permit bank may not acquire a permit that will be used in a state operated permit bank, or allocate or transfer any ACE that may be associated with new permit, with such additional funds, until the state-operated permit bank provides the Council the opportunity to review the implications of the expanded state-operated permit bank to the goals and objectives of the NE Multispecies FMP." However, there is nothing in the current regulations that prohibits any interested party, including a state, from acquiring a permit. Further, the *proposed* rule, as written, is inconsistent with Amendment 17 language. It is not appropriate for NMFS to prohibit a state from acquiring a permit that may or may not be used in the state-operated permit bank. Therefore, the Council cannot prohibit a state from acquiring a permit with additional funding it receives or impose any conditions on such an acquisition. As a result, the *final* rule will be revised to clarify that no ACE associated with a permit acquired with new funds may be allocated or traded before the Council has an opportunity to review the implications of additional permits acquired by a state.

cc: m, ah

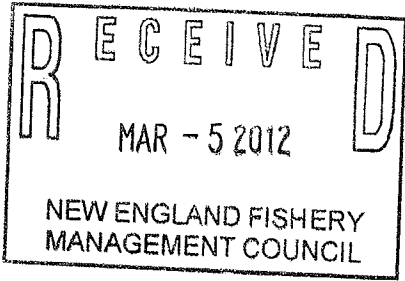


We appreciate the work of the Council to develop Amendment 17 in order to improve the effective operation of state-operated permit banks.

Sincerely,

A handwritten signature in black ink, appearing to read 'DSM', followed by a long horizontal line extending to the right.

Daniel S. Morris
Acting Regional Administrator



VIA ELECTRONIC MAIL

From: BarryGibson6@aol.com [mailto:BarryGibson6@aol.com]
Sent: Monday, March 05, 2012 11:00 AM
To: Terry Stockwell
Cc: Rip Cunningham; Paul Howard; Tom Nies; Maggie Raymond
Subject: Groundfish ACLs/AMs

March 5, 2012

Mr. Terry Stockwell, Chairman, Groundfish Oversight Committee
New England Fishery Management Council

Dear Terry:

We write to request that the Groundfish Committee recommend the following change to the way the Gulf of Maine cod and Gulf of Maine haddock annual catch limits (ACLs) and accountability measures (AMs) are administered and evaluated in the context of total catches in the fishery.

The general principle is that if either the recreational portion or the commercial portion of the fishery exceeds its ACL for Gulf of Maine cod or Gulf of Maine haddock, but the overall ACL for the stock is not exceeded, then the sector (recreational or commercial) that exceeds its annual catch limit would not be subject to the accountability measures. When evaluating whether the total ACL has been exceeded or not, NMFS should account for the maximum amount of carry-over available to the commercial groundfish sectors and add that to the estimate of total catch. The purpose of the ACL and AM system is to prevent overfishing. Overfishing is likely to occur only if the total ACL is exceeded. It makes little sense to impose additional restrictions on one portion of the fishery, if the total ACL for a stock is not exceeded.

We request that the Groundfish Committee include, in the next regulatory action for the multispecies fishery management plan, an option that addresses the principle described above.

Sincerely,

Barry Gibson, New England Director
Recreational Fishing Alliance

Maggie Raymond
Associated Fisheries of Maine

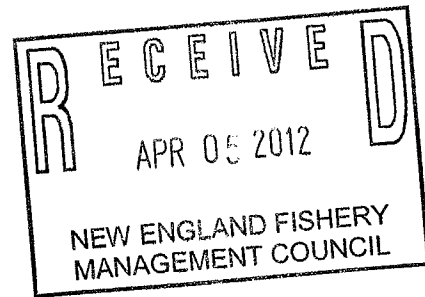
cc: Council, TN, AH (3/13)



MASSACHUSETTS MARINE FISHERIES INSTITUTE

April 3, 2012

Mr. Samuel D. Rauch III
Acting Assistant Administrator
for Fisheries
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, MD 20910



Dear Sam:

Many thanks for your letter dated February 24, 2012 responding to our request to develop a joint task force to explore the stock assessment of Gulf of Maine cod. We continue to think that such a task force is a good idea and hope you will reconsider.

We understand that the Council and its SSC have developed work plans to pursue four areas they identified as "priorities": 1) catch per unit effort (CPUE) in the commercial fishery, 2) consideration of revised recreational catch estimates, 3) discard mortality assumptions, and 4) stock structure and spatial distribution of the stock.

These are clearly important areas, and their investigation will do much to clarify concerns that have been expressed regarding the assessment. However, we are not certain that the pursuit of these areas will provide the Council with information required to effectively complete the Gulf of Maine cod stock assessment, as required by National Standard 1 and National Standard 2. We think there is much that is unsaid in the assessment and in related activities. It is not clear to us that the present approach will extract the best available information to enable the Council to make the best possible decisions on the cod stocks that inhabit the U.S. waters of the Northwest Atlantic Ocean.

Inasmuch as the clock is ticking and answers to our concerns are not as yet available, we continue to think that convening a joint task force to determine the scope of Council needs makes a lot of sense.

This is not in any way an attempt to bypass the SSC. Because the SSC terms of reference have been narrowly defined by the priority areas, it appears that a parallel effort is necessary.

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Just to exemplify and reinforce our point that the priority areas are incomplete, we have listed ten issues that do not appear to be part of the priority areas but are essential to completing the stock assessment. These are:

Several aspects of trawl surveys need to be examined in the revised assessment:

1. The estimate of survey catchability suggests that stock size is being underestimated by the SAW53 assessment. The 2008 groundfish assessment review panel concluded that survey catchability estimates based on swept-area surveys of abundance are not expected to be greater than 1.0, and this diagnostic should be used for interpreting assessment results (NEFSC 2008, page 1-11). Figure A93 of the SAW53 report shows that survey catchability is greater than 1.0 for age-7, and "considering the calibration coefficients applied to the Bigelow survey years, this would suggest greater than 100% efficiency over the last two years" (NEFSC 2012a, page 52). The sources of this problem should be examined to understand why stock size may be underestimated.
2. Estimates of current stock size and fishing mortality are sensitive to the calibration coefficients used to convert the new Bigelow survey system to the previous Albatross survey system. The calibration coefficients are based on side-by-side experiments in which only 92 stations caught cod, and length-based calibrations are highly uncertain. Further investigation of the calibration is needed to evaluate current stock size and mortality. One alternative would be to estimate the calibration within the assessment model.
3. The spatial extent of NEFSC survey strata do not represent inshore habitats where cod persistently aggregate. For example, Figure A63 of the SAW53 document shows that several important fishing grounds are not sampled by the offshore surveys. The limited extent of the NEFSC survey and the decision to exclude some inshore surveys that were included in the previous assessment (e.g., the Massachusetts inshore autumn survey) leave an important component of the resource un-surveyed. The Massachusetts inshore survey effectively samples cod nursery habitat and provides a valuable index of recruitment to complement the NEFSC offshore surveys. The revised assessment should reconsider the use of all inshore surveys to index stock abundance.
4. The statistical distribution of cod catches in trawl surveys does not conform to the normal distribution assumed in the derivation of stratified means or variances. The aggregating nature of cod produces a patchy or skewed distribution, such that infrequent large catches are 'outliers' when modeled as part of a normal distribution. More advanced statistical treatment of trawl survey data (e.g., generalized models, zero-inflated models) should be considered to inform the assessment on trends in relative abundance.
5. The inference of continued concentration in the Western Gulf of Maine requires further investigation of survey distributions before the inference can be used to interpret trends in stock size or as a justification to exclude fishery catch rates from the assessment.

Several modeling decisions in the SAW53 stock assessment should be reconsidered:

6. The entire fishery is modeled as a single fleet, and a common age-selectivity is estimated for the total fleet. The fisheries that catch cod in the Gulf of Maine (recreational hook, commercial trawl, commercial gillnet, commercial hook) have distinctly different size and age selectivity, and their relative contributions to total catch have changed over the assessment time series. The model framework used for the SAW53 assessment allows for modeling each fleet separately, which would facilitate more accurate modeling of selectivity, offer a more appropriate configuration for including fishery effort and catch rates, and provide fishery managers valuable information on the contributions of each fleet to fishing mortality.
7. The SAW53 assessment assumes a 'flat-topped' survey selectivity in which all large, old cod are fully vulnerable to the trawl surveys. Cooperative research results from MFI conservation engineers and others shows that large cod have the endurance to out-swim the relatively short survey tows. Cod also tend to inhabit hard bottom that cannot be sampled by the trawl surveys, which may lead to lower selection of older cod. Therefore, it would be more appropriate to freely estimate survey selectivity, rather than forcing a flat-topped selectivity pattern.
8. The stock assessment assumes a constant natural mortality rate for all ages and years, despite the increase in many predator populations in the Gulf of Maine. Some scientists are concerned that cod in the Gulf of Maine are exhibiting the low productivity seen in Canadian cod stocks. The SAW53 report does not suggest slower growth, later maturity, or reduced reproductive rate as exhibited by northern cod; and the 2012 update of other groundfish in the region (NEFSC 2012b) does not support a multispecies decline, as seen in Atlantic Canada. However, claims of decreased production should be tested with investigations of increased natural mortality of cod in the Gulf of Maine, similar to the trans-boundary assessment of cod on Georges Bank that assumes a greater natural mortality on older ages since the mid 1990s (TRAC 2011).
9. The overfishing definition and associated rebuilding target recommended by the SAW53 review panel are arbitrary and inconsistent with the definition of overfishing in the Magnuson Act (F_{MSY} and B_{MSY} , respectively). The justification for the $F_{40\%}$ proxy was based on a precautionary approach. However, the precautionary control rule used to manage New England groundfish defines Acceptable Biological Catch as 75% of the Overfishing Limit, so the Overfishing Limit itself should not be precautionary. Furthermore, the rebuilding target associated with the $F_{40\%}$ proxy is substantially greater than alternatives that are based on direct estimates of F_{MSY} .
10. The time series of the SAW53 assessment (1982-2010) does not consider all available information (e.g., fishery and survey data back to the 1960s) and ignores valuable information on stock productivity. The longer-term perspective on the stock-recruit relationship suggests that several alternative theoretical relationships should be considered to model stock productivity and MSY reference points.

Mr. Samuel D. Rauch III

Page 4

April 3, 2012

Although we appreciate the willingness of NOAA Fisheries to revise the SAW53 assessment and resolve the issues identified by the SSC, and we trust that those issues can be addressed relatively quickly and easily, the additional scientific issues will require a more extensive end-to-end approach to assessing the Gulf of Maine cod resource and fishery. The Massachusetts MFI (a collaboration of academic and agency scientists, fishery managers, and fishermen) has a productive history in cod research and management including field studies, stock assessment, policy analysis, and innovative management. We feel that the MFI is uniquely suited to lead in the initiative to improve the scientific basis of fishery management for Gulf of Maine cod. We hope to work in collaboration with NOAA Fisheries on this initiative as we continue our work.

Sincerely,



Paul J. Diodati
Co-chair, MFI



Brian J. Rothschild
Co-chair, MFI

References

- NEFSC (Northeast Fisheries Science Center). 2008. Assessment of 19 Northeast groundfish stocks through 2007. NEFSC Ref. Doc. 08-15.
- NEFSC (Northeast Fisheries Science Center). 2012a. 53rd Northeast Regional Stock Assessment Workshop (53rd SAW) Assessment Report. NEFSC Ref. Doc. 12-05.
- NEFSC (Northeast Fisheries Science Center). 2012b. Assessment or Data Updates of 13 Northeast Groundfish Stocks through 2010. NEFSC Ref. Doc. 12-06.
- TRAC (Transboundary Resources Assessment Committee). 2011. Eastern Georges Bank Cod. TRAC Status Report 2011/02.



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

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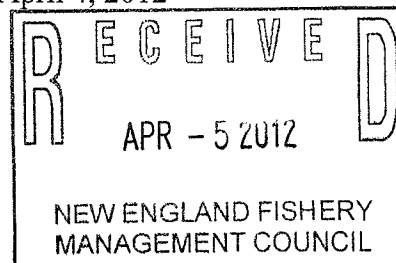


Deval Patrick
Governor

Richard K. Sullivan, Jr.
Secretary

Mary B. Griffin
Commissioner

April 4, 2012



Ms. Susan Murphy
Supervisor, Northeast Multispecies
55 Great Republic Drive
National Marine Fisheries Service
Gloucester, MA 01930

Dear Susan:

At the Groundfish Committee meeting last week I made a motion for an additional goal with objectives for sector monitoring. These would have supplemented Committee goals/objectives already adopted but appropriate for catch monitoring only.

My intent was to expand the scope of considerations for effective monitoring for the northeast multispecies fishery tied to lessons learned during the first year of sector management and alluded to in the staff March 22 White Paper on effective monitoring with its "other" sample goals for monitoring programs, especially transparency. I highlighted the need to monitor financial performance of the fishery in a timely way, and I referenced the NOAA Fisheries/SMASST/DMF collaborative break-even analyses and DMF's Sector 10 evaluation.

Although my motion did not pass, there was support for some of my proposed objectives but only if data analyses indicated a concern or problem needing to be addressed. I believe you indicated NMFS might be able to perform some of those analyses. At the very least, you had data for that work.

In the interest of moving forward and not wasting any more time on commercial and recreational fishermen's allegations (e.g., offshore vessels shifting their effort inshore) without facts in hand, I request NMFS through your involvement on the Groundfish Committee perform the following tasks linked to increasing NMFS and Council understanding of sectors' structure, operation, and evolution relative to: (1) the distributive effects of sector ACE leasing and fishing behavior; (2) shifts of effort to non-groundfish fisheries; (3) shifts of offshore vessel effort to inshore fishing grounds such as Stellwagen Bank; and (4) improving the quality and accuracy of stock assessments.

I repeat below my suggested goal with objectives (in somewhat expanded form). I still intend to offer them to the Council at our April meeting, but in the meantime, it makes sense for me to ask you what data are already available for analyses by NMFS or

the PDT (preferably NMFS) to determine if the goal and objectives are reasonable and achievable.

The clock is ticking (flying by) with fishing year 2012 having no additional measures in place to deal with GOM cod fishing mortality and stock rebuilding beyond status quo actual catch for commercial fishermen (although 22% reduction in catch levels from 2011) and a slight reduction in allowable recreational harvest strangely tied to a substantial drop in the minimum size from 24 to 19 inches, i.e., by reducing the number of cod that must be released, we substantially reduce fishing mortality (i.e., dead discards). I understand NMFS' logic, but allowing recreational effort to be status quo (except 9 fish instead of 10) and focused on smaller cod, might not accomplish what NMFS seeks to achieve, i.e., reducing GOM cod overfishing.

My suggested goal with objectives will enable a better Council and NMFS understanding of what is really happening to our groundfish fishery and determine what additional steps we must take. Here's where your and NMFS assistance are vital.

Goal: To increase Council understanding of sectors' structure, operation, and evolution relative to:

- (1) the financial stability of sectors and their members;
- (2) distributive effects of sector ACE leasing and fishing behavior in the context of Magnuson-Stevens National Standards;
- (3) impacts on Council groundfish conservation and allocation decisions;
- (4) shifts of effort to non-groundfish fisheries inconsistent with the Council's Sector Policy; and
- (5) promoting improved quality and accuracy of stock assessments.

Comment:

This goal highlights the need to monitor sectors' financial stability regarding their economic performance (or lack thereof) and the internal dynamics of sector operation. I don't subscribe to a "hands-off" policy of letting sectors "figure it all out for themselves" with little to no "meddling" or "interference" by NEFMC, NMFS, or the states. We manage groundfish for the benefit of the nation and not just permit holders, and we must be sensitive to M-S National Standards. Although I'm encouraged that sectors are working on some solutions to internecine conflicts and resource concerns, the proof of the pudding is in the eating. There is nothing on the table, as yet.

Moreover, May 1, 2012 marks the beginning of a new fishing year with no meaningful interim action by NOAA Fisheries to deal with very low GOM cod abundance and overfishing except for the 6,700 mt allowable catch that by itself won't solve our pressing problem. It now seems we have an inevitable outcome beginning May 1, 2013.

This will be a watershed year for sector members who will plan for May 1, 2013 and a GOM cod fishery some say will be bycatch only. The directed fishery very likely will end if the current assessment's conclusions stand, and a new look at the assessment this year provides similar results.

Regarding the possibility of a bycatch fishery, NMFS has the responsibility of helping the Council construct a viable approach for handling this outcome. With a 22% cut in the GOM cod ACL having an impact on the leasing market and affecting fishermen

dependent on leasing and receiving quota, NMFS' expertise will be needed to predict the cut's impact on sector performance and on common pool fishermen as well.

Objectives:

(1) *To annually monitor financial performance of sectors with techniques providing the best assessment of sector members' economic viability, e.g., break-even analysis.*

Comment: Using the methods developed and employed by NOAA Fisheries and SMAST/DMF, NMFS should perform a break-even analyses for the groundfish fishery for FY 2011 and prepare to perform a similar analysis for FY 2012 – the fateful year for the groundfish fleet. This analysis already has been completed for 2009 and 2010. Will NMFS agree to do this analysis?

(2) *To monitor the movement of leased inter- and intra-sector groundfish ACE and the economic value of that leasing to fishermen who lease and who acquire ACE.*

Comment: This information will be necessary for break-even analysis and discussion/debate pertaining to consolidation and excessive shares.

(3) *To promote sector monitoring of location and movement of spawning GOM cod to:*
(a) *minimize the impacts of sector members on spawning aggregations and*
(b) *maximize the benefits of protecting spawning cod and enhancing their reproductive success.*

Comment: I've addressed this objective in the letter sent to Sam Rauch about the Interim Rule and 2012 Sector Operations Plans. Please refer to that letter. Also, note that the Dean, Hoffman, and Armstrong paper "Disruption of an Atlantic cod spawning aggregation resulting from the opening of a directed gillnet fishery" has been published (*North American Journal of Fisheries Management* 32(1):124-134).

(4) *To monitor the shift of effort into non-groundfish fisheries seasonally and throughout the year by sector fishermen's non-groundfish catches (pounds and value).*

Comment: DMF's Sector 10 analyses helped in this regard. A similar analyses should be done for all sectors.

(5) *To improve effectiveness of monitoring sector groundfish catch by broad stock area (Gulf of Maine, inshore and offshore Georges Bank, and Southern New England/Mid-Atlantic).*

(6) *To improve monitoring of sector effort and catch within the Stellwagen Bank National Marine Sanctuary to assist the Sanctuary better characterize the importance of Sanctuary fishing grounds to sector fishermen.*

(7) *To monitor the redistribution of GOM cod allocations through ACE leasing to the southwestern portion of the GOM (e.g., Stellwagen Bank) where cod are now concentrated.*

Comment: I suspect very few people want to address this issue, but considering Framework 27 logic pertaining to the roller/rockhopper restriction and the NEFMC/NMFS longstanding position on inshore/offshore effort (e.g., 2:1 DAS counting

area), a look into effects of ACE leasing on GOM cod allocations (i.e., redistribution) is warranted.

(8) To monitor effort and trip catch of large vessels in the inshore waters of the GOM to determine whether large-vessel effort is increasing in those inshore waters contrary to Council longstanding concerns about interaction and conflicts with smaller vessels dependent on inshore waters.

Comment: You are aware of the claim that effort by larger vessels has shifted inshore since May 1, 2010. If true, then this shift has had consequences for the last two fishing years (May 1, 2010 through April 30, 2012). But what have been those consequence for the GOM cod resource and other groundfish, and how has the effort of these larger vessels fishing multi-day trips 24-hours a day impacted inshore fisheries by day trip vessels and recreational fishermen? I attach for your information a letter from Captain Tom DePersia expressing his concern about large-vessel effort and lack of fish.

I realize none of these tasks will be easy. Nevertheless, I ask if any are feasible, and how best can we achieve these proposed objectives. As always, I thank you for your patience and assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Pierce". The signature is stylized with a large, sweeping initial "D" and "P".

David Pierce, Ph.D.
Deputy Director

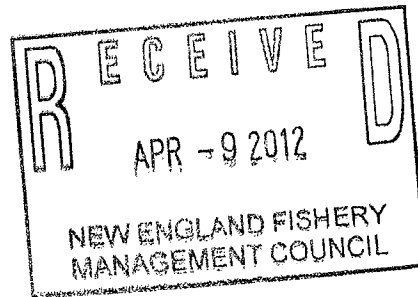
cc
Paul Diodati
Paul Howard
Rip Cunningham
Terry Stockwell
Daniel Morris
Sam Rauch



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

April 2, 2012

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



Dear Paul:

I am writing to update you on our progress toward developing a study plan to address scientific issues raised about the recent Gulf of Maine cod assessment. I also provide information that may help the Council as it considers timing for the next assessment.

As you know, at the last two meetings of the NEFMC Executive Committee various aspects of the Gulf of Maine cod assessment were discussed, including terms of reference and timing for the next assessment. In an email sent to Chris Legault and myself on March 2, 2012, Tom Nies provided a spreadsheet listing four different timeline scenarios (extending from February 2012 through May 2014) for addressing the scientific issues of concern identified by your SSC and for conducting the next assessment. Tom's spreadsheet has been very useful to us as we evaluate the logistical and informational tradeoffs required to accommodate a GOM cod assessment later this year.

Our discussions have focused on:

- (a) How much new information can be developed in the short-term on the four scientific topics highlighted by the SSC [i.e., discard mortality; LPUE/CPUE; incorporation of MRIP data; and cod stock structure].
- (b) Existing Center stock assessment (and PDT) responsibilities and commitments for the remainder of 2012, specifically the SAW/SARC 54, the TRAC meeting, 2012 Mid-Atlantic stock updates, and SAW/SARC 55.
- (c) Analytical work required to support SSC and Council activities on 2013 ACL and groundfish FMP specifications.
- (d) The need for peer-review of any new scientific data included in the next GOM cod assessment.

In developing our own plans for addressing these topics, we have relied heavily on the workplans that were developed by the SSC. Even though we are currently moving forward to address the



cc: TN, PMF (4/10)

research needs for each of these topics, we will be unable to complete our own work plans until the Council has indicated its preference regarding the timing of the next GOM cod assessment. Once this has been done, we will finalize our plans and provide them to the Council.

In terms of timing for management actions, we recognize that an August 2012 assessment would allow the SSC and the Council to use their standard timelines for incorporating new stock assessment results while setting ACLs and FMP specifications for the 2013 fishing year. Results from a December assessment, on the other hand, would require initiating a “framework” process in fall 2012, using a range of outcomes within which the December assessment results are likely to occur. Although not typical, this approach has been used by the Council in the past.

Regardless of whether the new assessment takes place in August or December, we would plan to incorporate catch and survey data collected during 2011. Furthermore, we expect to be able to consult with industry and other scientists regarding discard mortality rates within the next two months and, therefore, alternative discard mortality rates could be available for an August assessment.

The outcome of our CPUE/LPUE investigations is uncertain, and the amount of time necessary to complete this work will depend, to some extent, on preliminary results. Therefore, if useful information is derived from these analyses, it may be possible to incorporate the results in an August assessment, but focusing on a December assessment would be more realistic.

Similarly, while it is possible that we could be able to consider new recreational fishing mortality (MRIP) estimates in an August assessment, it is more realistic to assume that this would not be possible until December. This is because guidance on analytical procedures for incorporating MRIP data in stock assessments are not yet available from the March workshop on this topic; furthermore, we have been informed that MRIP-based estimates of recreational fishing mortality for 1998-2003 will not be available until August 2012 at the earliest.

The scenarios that Tom Nies provided are particularly useful for considering the timing of future GOM cod assessments relative to the availability of new information on cod structure. It is important to bear in mind that while we are committed to careful evaluation of the questions related to this issue, we do not expect to be able to bring substantive new information on cod stock structure to bear in any cod assessment work we conduct during 2012. Thus, the Council may want to pay particular attention to Tom’s suggestions regarding future (2013 and beyond) cod assessments as the results of the stock structure work become available.

If the new GOM cod assessment does take place in December, it would be included within SAW/SARC 55, and peer review of the assessment would be completed within the SAW/SARC process. However, we are already planning to complete three stock assessments during this SAW/SARC and it would, therefore, be necessary to substitute GOM cod for one of these three (surf clams, white hake, Georges Bank cod) and to work with the Council to address the consequences.

I understand that this matter needs to be discussed by the Council at its next meeting, and I hope this provides the information necessary to support the Council’s deliberations. Please let me

know if you would like any additional information, and if you would like us to make a presentation on this issue at the April Council meeting. I think it will also be important for us to discuss concerns regarding the timing of the next GOM cod assessment, and the tradeoffs related to other assessment work being carried out at the Center this year, at the May meeting of the NRCC.

I look forward to continuing to work with you and the Council on this matter.

Sincerely,

A handwritten signature in black ink that reads "William Karp". The signature is written in a cursive style with a large, prominent "W" and "K".

William A. Karp, Ph.D.
Acting Science and Research Director

cc: S. Rauch
R. Merrick
C. Selberg
R. Brown
F. Serchuk
J. Weinberg
P. Rago
T. Frady
D. Morris (NERO)



New England Fishery Management Council

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C. M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

April 9, 2012

Mr. Dan Morris
Acting Northeast Regional Administrator
NMFS/NOAA
55 Great Republic Drive
Gloucester, MA 01930-2298

Dear Dan:

The National Marine Fisheries Service recently released the Proposed Rule for Framework 47 to the Northeast Multispecies Fishery Management Plan. In the Proposed Rule, NMFS specifically requested comments on the adequacy of the proposed accountability measures.

When drafting Framework 47, the Council considered various alternatives for accountability measures (AMs) and ultimately chose to adopt no possession measures for Atlantic halibut and Atlantic wolffish. These AMs were chosen because they were expected to keep mortality at or below target levels, and because both of these fish are hardy and it is expected that some amount of the fish would survive upon being returned to the water.

The use of no possession rules as a "proactive" accountability measure was first used in Amendment 16 and has proven to be an effective method for keeping catch within allowable levels. Catch was appropriately constrained in fishing year 2010. Now, there are only a few weeks left in the 2011 fishing year, and preliminary data shows that these rules have kept catch well within the mortality targets again. The no possession rules are the Council's preferred method for ensuring that catch does not exceed mortality targets for these stocks that are in rebuilding programs, while simultaneously affording fishery participants the greatest possible opportunity to land healthy stocks in an appropriate and efficient way. Given the recent assessments that indicate the likelihood of low allowable catch levels for many stocks across the fishery in the near future, this is now more important than ever.

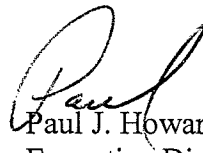
A second issue in the Proposed Rule we wish to address is the proposed modification of the way fillets are counted against sector ACE. In Framework 27, the Council adopted a provision that fillets would be counted against trip limits at the rate of 3 to 1. This action proposes to modify that provision and to use conversion factors. While the full Council has not taken a position on this proposed change (since it was not a part of Framework 47), I urge you to carefully consider the following issues:

- The proposed change modifies a Council decision made in Framework Adjustment 27 and approved by NMFS without any advance notice or consultation with the Council. It is not clear how NMFS can overturn a Council measure that was previously approved.

- The proposed conversion factors do not make sense. As an example, the conversion factor for cod is nearly identical to the conversion factor used for dressed cod; the conversion factor for yellowtail flounder is 1, which is like saying that a whole flounder weighs the same as a flounder fillet. Clearly this is not the case.
- There are no provisions in the FMP that prohibit the landing of fillets in commercial quantities, as long as the fillets meet the minimum size requirement. The proposed conversion factors mean that if fillets are landed, a vessel operator can increase the amount of fish killed for a given ACE. While a market has not developed for landing fillets in commercial quantities, the proposed change could inadvertently lead to an incentive to find such a market, given the low catch levels for several stocks expected next year. If this occurs, there will be a loss of biological data (otoliths, lengths, etc.) from the fish landed as fillets, catch weights will be inaccurate, and the likelihood the actual catch will exceed Annual Catch Limits will increase.
- Even if a commercial market does not develop, the application of this rule to fillets landed for personal consumption could lead to under-reporting of a significant part of the catch given the number of trips and crew.
- The proposed change does not seem consistent with how fillets are counted for recreational catch.
- The preamble to the proposed rule seems to imply that this change has already been implemented and has been in use for some time. It is not clear whether the requirements of the APA were followed prior to making the change.

Thank you for your consideration of these comments and thank you for your agency's work on this rule. As always, please call me if you have any questions.

Sincerely,



Paul J. Howard
Executive Director



Paul J. Diodati
Director

Commonwealth of Massachusetts

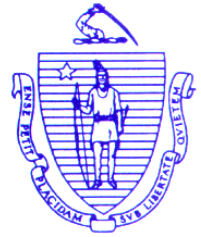
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Deval Patrick
Governor

Richard K. Sullivan, Jr.

Secretary

Mary B. Griffin

Commissioner

MEMORANDUM

TO: Groundfish Committee

FROM: David Pierce, Deputy Director

DATE: April 13, 2012

RE: GROUND FISH GEAR

At the last Groundfish Committee meeting I indicated that some vessels appeared to be using modified ground gear enabling them to fish more effectively on hard bottom. I suggested that, if true, the intent of Framework 27 (1999) potentially was being subverted. Framework 27 included a 12-inch size restriction on roller and rockhopper gear to provide an incentive for offshore vessels to stay offshore and away from inshore grounds where small vessels were dependent. I indicated I would investigate and report back at our meeting on the 18th.

After speaking to my staff, law enforcement, gear researchers, and gear suppliers, I learned this trawl is the result of gear experiments undertaken by SMAST researchers, Captain Aaron Williams (F/V Tradition, Narragansett, R.I.), and Tor Bendiksen (Reidar's Manufacturing, Inc., Fairhaven). This research, funded by the R.I. Commercial Fisheries Foundation (Saunderstown, R.I.), occurred in March 2011 and is detailed in the final



report (July 29, 2011) "*Preliminary test of a modified groundfish trawl to reduce the catch of SNE winter flounder in the large mesh groundfish fishery*" (He, P., S. Roman, A. Williams, and T. Bendicksen).

Through modified groundgear with "escape windows" (12 x 18") and a large-mesh panel in the belly, the trawl's purpose is to release flounders and small cod while retaining large cod. This experimental trawl gear is based on commercial groundgear (riser sweep) and has 10" rockhopper disks and floppy disks (see figure).

This testing has prompted further work and modifications to the initial design. It is ongoing as fishermen seek out ways to creatively deal with low allocations and “choke” species to maximize the yield from all their groundfish allocations.

Knowing that this gear is conservation-minded, I’m tempted to drop the issue, but I cannot because I’m left wondering if the 12” roller/rockhopper gear is still effective (if it ever was) at prompting offshore, multi-day trip fishermen to fish primarily offshore. When we managed with days-at-sea and time was of the essence, risk of gear damage was a disincentive (so we thought) for fishermen to fish on hard bottom. However, now with no DAS restrictions for sector fishermen, no trip limits, and with time unconstraining, if an area is suspected of having large amounts of groundfish, the risk of tear-ups and gear damage (even if high) is worth taking especially for vessels with double reels and a crew ready to repair net damage.

Therefore, the roller/rockhopper restriction may not be accomplishing its original purpose. In fact, I understand fishermen might simply use larger disks on their groundgear and still comply with the restriction. We appear to have a Framework 27 rule that has been in place for over 10 years and has been ineffective.

For this reason and in the context of Amendment 16 Council laissez-faire sector management, the question is: *“Does the Committee and Council wish to amend or adopt a new approach for May 1, 2013 to deal with concerns of fishermen restricted to inshore fishing due to their vessel size, groundfish allocations, and other factors?”* I highlighted these concerns in my January 9 document to the Council (GOM Cod SARC 53Assessment & its Implication) with an emphasis on inshore versus offshore cod distribution, cod collapses, protection of spawning aggregations, and the current no-trip-limit fishery. These concerns also were described in my February 29 letter to Sam Rauch regarding the NMFS proposed Interim Rule and Sector Operations Plans for 2012.

Nothing can or will be done for FY May 1, 2012 through April 30, 2013; consequently, before these concerns can be addressed we will have had three fishing years under Amendment 16. Considering the status of GOM cod and our need to stop overfishing by May 1, 2013, I suggest we’re faced with a now or almost never decision as to the fate of fishermen with only inshore groundfish fishing opportunities. Waiting for the sand eels to return and for water temperatures to return to “normal,” as some fishermen have suggested as the “cure” for our current situation, I suggest is not an option.

I anticipate that sectors, even with some dissension within and among their ranks, will contribute to this discussion in a very productive way. I expect sectors will offer their own ideas and soon for Committee consideration.