

#4



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

JUL 26 2012



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

Dear Paul:

Thank you for your June 22nd letter regarding the Council's request for analysis of Gulf of Maine (GOM) cod carryover. I understand the gravity of the situation facing the groundfish industry and appreciate the Council's efforts to mitigate impacts of the anticipated low catch levels in 2013 and beyond. We have given careful thought to the Council's request.

Status Quo:

The primary constraint on carryover for next or any year is the requirement to set a catch level that does not result in overfishing. The current harvest regime reduces but does not end overfishing. We all understand that this is not a repeatable regime and that overfishing must end for FY2013.

Our projections for the fishing levels in 2013 are based on the assumption that all available fish will be harvested in 2012. If they are not harvested, those fish will exist in 2013 in the form of an increased spawning stock biomass. The overfishing limit can be simply understood as essentially as a percentage of the spawning stock biomass derived by applying the desired fishing mortality rate. If the spawning stock biomass goes up, the overfishing limit goes up and more fish can be caught. However, it is not a 1:1 ratio. Since it is a percentage, a fish saved this year only results in a fractional increase in the overfishing limit under the status quo reference points adopted by the Council.

The groundfish industry has the ability to voluntarily set aside half their catch this year to increase the spawning stock biomass for next year.

The FY 2012 sector sub-ACL for GOM cod is 3,618 mt; half of the sub-ACL is 1,809 mt. Setting aside 1800 mt would only result in about a 300 mt increase in the very low FY 2013 allowable catch. This small increase is what would be available without further council action if the industry acted voluntarily. However, in order to achieve the increase for FY 2013, the FY 2012 catch assumptions used in projections to generate an ABC for FY 2013 must reflect the sectors' intent to constrain catch in FY 2012. Currently, sectors are being permitted to carryover 10 percent of unused annual catch entitlement. This can also affect the catch assumptions used



cc Council, CBK, TN, FH (7/27)

in establishing ABC and, as we previously stated, this carryover allowance must be evaluated by the Council to ensure that it does not result in exceeding the fishing mortality target.

Further Council Action:

Authorizing a change in how much carryover is possible would require Council action. The Secretary does not have the ability to modify the carryover amount by interim or emergency rule. I understand that the Council is already considering an increase in the amount of allowable carryover in the alternatives being developed for Framework Adjustment (FW) 48. The current timeline for FW 48 would not provide industry with certainty in time to limit FY 2012 catch to benefit from increased carryover in FY 2013. Any consideration of carryover must begin with an analysis of the expected stock impacts of year-1 under-harvest and the resultant year-2 change in biomass, followed by necessary adjustments to year-2 catch limits, if appropriate, to ensure they are not exceeded. The Council could explore how this may be done through the biennial adjustment process (framework adjustment) or by considering revisions to the Council's ABC control rules. Any carryover program must be evaluated in the context of the requirements of the MSA and National Standard 1 guidelines, as detailed in my previous letter. Carryover must not allow catch to exceed catch limits or mortality targets established under the FMP or otherwise result in overfishing. Furthermore, the National Standard 1 guidelines, as currently written, require overfishing to be evaluated annually. As we have indicated previously, in the case of GOM cod, this means overfishing must still be ended in FY 2013.

We must also consider that the upcoming assessment for GOM cod could revise our understanding of the status of the stock. Given the trend we've seen of late for cod stocks, increasing carryover as a means for increasing fishing opportunity for GOM cod at a time when the ACL for FY 2013 may be decreasing could increase the risk of exceeding catch limits. We remain supportive of the Council exploring carryover approaches consistent with this guidance and our previous letter in its development of Framework 48, and we stand ready to support Council staff and the Groundfish Committee in that effort.

If you have any additional questions, please contact Melissa Vasquez of the Sustainable Fisheries Division at (978) 281-9166.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Morris', with a long horizontal line extending to the right.

Daniel S. Morris
Acting Regional Administrator



3

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*

July 25, 2012

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

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

Dear Dan and Bill:

I am writing to convey a request from the New England Council for technical assistance in analyzing the impacts of potentially modifying the groundfish closed areas. In his letter of November 7, 2011, Acting Administrator for Fisheries, Eric Schwaab, expressed his commitment that NMFS would work together with our Council to optimize quota utilization. He suggested that the Council's Omnibus Habitat amendment presented an "opportunity to explore which closed areas are necessary and which can be opened" as one approach to achieve better quota utilization.

In addition to impacts on benthic habitat, changes to the closed areas could affect spawning behavior, other fisheries, and protected resources; therefore, the Council decided these concerns should be considered by its Groundfish Committee and Groundfish Plan Development Team (PDT). Unfortunately because of the unanticipated necessity to deal with the changed status of Gulf of Maine cod and also issues such as the allocation of yellowtail flounder between scallop and groundfish vessels, the Groundfish Committee and PDT have not been able to make substantial progress on possible modifications to the groundfish closed areas. At this time, however, the committee and PDT plan to address the possible changes to the closed areas and it would be timely for NMFS to provide whatever scientific and technical assistance it can to these efforts.

Please let me know the best opportunity to discuss coordinating assistance on this issue and don't hesitate to contact me with any questions.

Sincerely,

Paul J. Howard
Executive Director

