

Correspondence

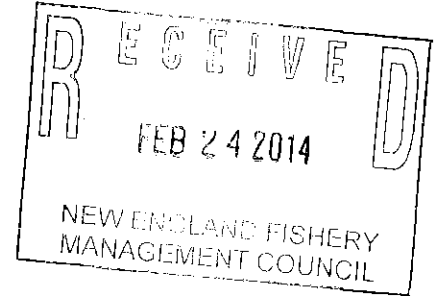
Received since the Jan/Feb Council meetings

3

United States Senate

WASHINGTON, DC 20510

February 19, 2014



The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Pritzker:

Congress appropriated \$75 million for Fisheries Disaster Assistance in the Fiscal Year 2014 Consolidated Appropriations Act. This funding is intended to mitigate the effects of declared commercial fishery failures and resource disasters, including the declared disaster for the Northeast Multispecies Groundfish Fishery. The fishing economies of our states continue to experience tremendous financial strain. We therefore urge you to exercise the waiver authority granted to you under Section 315 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 U.S.C. 1802) and waive the match requirement for this declared disaster.

On September 13, 2012, a federal fisheries disaster was declared for Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York pursuant to Section 312(a) of the MSA and Section 308(b) of the Interjurisdictional Fisheries Act (IJF). Despite strict adherence to new rigorous regulations by fishermen, key fish stocks have not rebounded, according to NOAA's calculations. The resulting reductions in total allowable catch for certain critical groundfish stocks are having a significant and on-going impact on coastal communities, fishing families, and local economies. The Fisheries Disaster Assistance is critical to helping the industry recover from these dramatic losses. Our state governments continue to stretch very limited resources, and waiving the state match requirement is crucial to assisting our state and local economies in their efforts to support the fishing industry.

The Secretary's waiver authority is clearly expressed in the MSA. Section 315(b)(4) of the Act grants the Secretary the authority to waive the matching requirements for disasters declared under Section 312 of the MSA and Section 308 of the IJF, as well as "any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent." Moreover, Section 315(c) allows the Secretary to determine any MSA Section 312 and IJF Section 308 commercial fishery failure to be a "catastrophic regional fishery disaster," and further eligible for the state match waiver. Since the Northeast Groundfish Fishery Disaster was declared under MSA Section 312 and IJF Section 308, we urge you to waive the matching requirement for Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York.

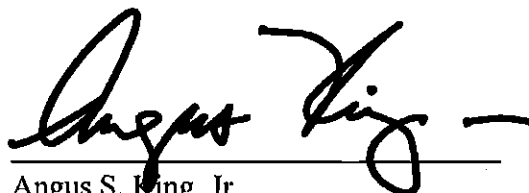
cc: Corni, FH, JC (2/27)

Fishing is an integral part of our states' economy and heritage. While we are pleased that the fiscal year 2014 Federal Disaster Assistance will provide some relief to the fishing communities in the northeast, we are concerned that requiring a 25 percent match could severely limit the effectiveness of the program. We again ask that you exercise the waiver authority granted to you in the law, and look forward to your prompt reply.

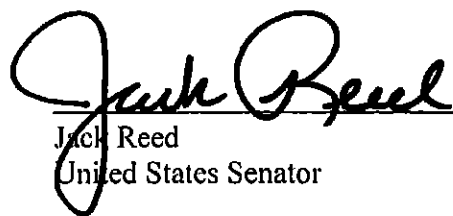
Sincerely,



Susan M. Collins
United States Senator



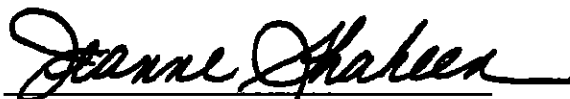
Angus S. King, Jr.
United States Senator



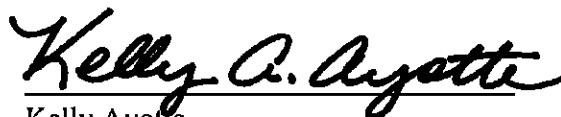
Jack Reed
United States Senator



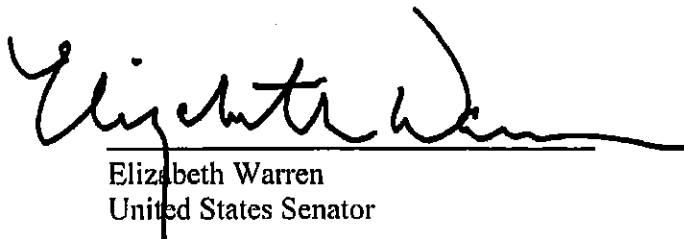
Sheldon Whitehouse
United States Senator



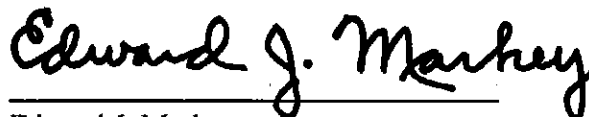
Jeanne Shaheen
United States Senator



Kelly Ayotte
United States Senator



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator



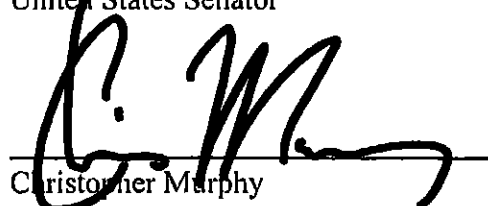
Charles E. Schumer
United States Senator



Kirsten E. Gillibrand
United States Senator



Richard Blumenthal
United States Senator



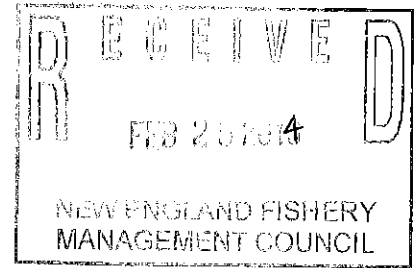
Christopher Murphy
United States Senator

cc: Dr. Kathryn Sullivan, Acting Secretary for Oceans and Atmospheres
Samuel Rauch, Deputy Director, NOAA Fisheries

NORTHEAST SEAFOOD COALITION

February 24, 2014

Terry Stockwell, Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Dear Terry,

It is with great urgency that I write to you today to request the Council address the existing Accountability Measures (AM) for Northern and Southern windowpane flounder through an expedited and focused Framework action.

We understand that a focused Framework adjustment can be accomplished in two Council meetings with one of them being a Committee meeting. Therefore we believe the Council could act to initiate a Framework during the February Council meeting, which would place the first Framework meeting at the next Groundfish Committee meeting and the second to occur at the full Council meeting scheduled in April. NSC greatly appreciates the limitations on Council resources which is why we offer that this Framework be focused on the groundfish sub-ACL and AMs for windowpane only.

NSC is committed to assisting the Council and NMFS toward immediate management adjustments that can prevent long term biological or economic losses. More specifically, to adjust the Multispecies FMP through focused, limited measure Frameworks where policy solutions may already exist and profound negative consequences can be avoided. NSC strongly believes this is the case with the Northern and Southern windowpane flounder AMs.

Over the past few months, NSC has come to learn that the existing AM for Northern windowpane flounder is entirely inadequate and therefore ineffective for preventing ACL overages while the triggering of the Southern windowpane flounder AM now appears to be largely unnecessary. The following includes additional information for consideration:

NORTHERN WINDOWPANE FLOUNDER:

- The existing AMs are reactive and only trigger once the ACL is exceeded which is rarely known in-season.
- We estimate the existing large AM area will cost 5 to 10 million dollars in lost revenues.
- The existing AM areas do not account for much of the area where windowpane bycatch has been occurring in recent years. There will be tremendous economic losses without commensurate biological benefits in the form of windowpane mortality.

4 PARKER STREET, STE. 202, GLOUCESTER, MA 01930
62 HASSEY STREET, NEW BEDFORD, MA 02740
TEL: 978.283.9992 | FAX: 978.283.9959
NORTHEASTSEAFOODCOALITION.ORG

cc: Council, FH, VC (3/3)

- The AM only applies to groundfish. Groundfish caught 100.5% of the 2012 sub ACL yet the large AM area was triggered.
- The groundfish industry will be prepared to submit an alternative AM that will provide improved accountability to the sub-ACL.

SOUTHERN WINDOWPANE FLOUNDER:

- The most recent status determination for this stock is that S. windowpane is rebuilt.
- The ACL overage reported in 2012 is covered by the increase in the ACL in 2013.
- The economic impacts to our SNE membership that will result from lost income generated from the SNE winter flounder and SNE yellowtail flounder fishery will be substantial. A framework will allow a focused look at the AM and future catch projections using updated information.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jackie Odell".

Jackie Odell
Executive Director



3

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

February 27, 2014

Dr. Christopher Moore
Executive Director
Mid-Atlantic Fishery Management Council
Suite 201, 800 N. State Street
Dover, DE 19901

RE: Framework Adjustment 52 to the Northeast Multispecies (Groundfish) Fishery Management Plan

Dear Chris:

I would like to advise you that the New England Fishery Management Council initiated Framework Adjustment 52 (FW 52) to the Northeast Multispecies (Groundfish) fishery management plan on February 26, 2014.

The sole purpose of FW 52 will be to consider revising the accountability measures (AMs) for the groundfish fishery sub-ACLs for northern and southern windowpane flounder stocks that would be retroactive for FY2014. The Council also requested that the action be narrow in scope with a much abbreviated development window.

Please be advised that FW 52 will be on the agenda for the next Groundfish Oversight Committee meeting on March 28, 2014 in Providence, RI.

Please contact me if you have questions.

Sincerely,

Thomas A. Nies
Executive Director



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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

March 6, 2014

Mr. John Bullard
Regional Administrator, GARFO
NMFS/NOAA Fisheries
55 Great Republic Drive
Gloucester, MA 01930

RE: FY 2014 recreational accountability measures for Gulf of Maine cod and haddock

Dear John:

In a letter dated January 17, 2014, you indicated that recreational catches for both Gulf of Maine (GOM) cod and haddock stocks are above the sub-ACLs for FY 2013 (using data from May 1, 2013 through October 31, 2013). The letter also indicated that proactive accountability measures (AMs) for FY 2014 will be developed and encouraged the Council to develop recommendations for these AMs, consistent with the consultation requirements of 50 CFR 648.89(f)(3). To inform the Council discussion, the Recreational Advisory Panel (RAP) met on February 19 to discuss potential AMs. The Council then discussed the RAP's recommendations on February 25.

The RAP received a presentation from a Northeast Fisheries Science Center (NEFSC) economist on the bio-economic model for developing recreational measures. The RAP expressed concerns regarding the MRIP data and poor performance of the model because it under-estimated catches in FY 2013. In addition, none of the model-based AM scenarios presented were predicted to achieve the sub-ACLs for both stocks in FY 2014. The RAP suggested an additional scenario that was more conservative than any of the scenarios presented at the meeting. Based on that discussion, the RAP passed the following motion:

The RAP recommends to the Groundfish OSC/Council that 1) for GOM haddock for FY2014 to close wave 2 (March and April), and 2) adopt up to a 22 inch minimum size cod and up to a 22 inch minimum size haddock.

The motion **carried** on a show of hands of (9/1/0).

The RAP also developed a consensus statement regarding their concerns:

The RAP has serious concerns with the MRIP private recreational cod and haddock data on effort (number of trips) and non-compliance issues for FY 2013 regarding minimum sizes.

The Council reviewed the RAP recommendations, several AM scenarios and the expected impacts of those scenarios. None of the scenarios were projected to achieve both sub-ACLs. The Council agreed to report the RAP recommendations (see above), but did not endorse or reject them. In addition, the Council made these two motions:

That the Council recommends that NMFS consider for FY 2014 recreational AMs for Gulf of Maine cod and haddock, a combination of measures that include: a Wave 2 (March and April) closure for cod and haddock, an increase in the minimum size for cod and haddock to 22 inches, and no changes to the bag limits for cod and haddock (i.e., a 9-fish bag limit for cod and no bag limit for haddock).

The motion **carried** on a show of hands (11/3/2).

That the Council recommends that NMFS consider for FY 2014 recreational AMs for Gulf of Maine cod and haddock, a combination of measures that include: a Wave 5 (September and October) closure for cod and haddock, an increase in the minimum size for cod to the current minimum size limit for haddock at 21 inches, and in addition adjustments to the bag limits for cod and haddock that would be needed to achieve the FY 2014 ACLs.

The motion **carried** on a show of hands (15/0/1).

The Council did not specify a preference in any of these approaches. However, the Council expressed concern about turning catches into discards by increasing the minimum size of both stocks.

During both the RAP and Council discussions, concern was expressed about the timing of these discussions. There was no opportunity for review of the RAP recommendations by the Groundfish Oversight Committee, and a Council discussion was only possible because a special meeting was scheduled. Some states have little ability to notify anglers of regulatory changes after the first of the year, making it important that federal changes be announced as soon as possible to improve consistency between state and federal regulations. In the future it will be important that these AM consultations be held prior to the January Council meeting so that Council input can be provided. It is also important that AMs be presented for considerations that are expected to achieve management targets, even if those measures are onerous.

Thank you for considering these comments. Please contact me if you have questions.

Sincerely,



Thomas A. Nies
Executive Director

cc: Dr. William Karp, NEFSC

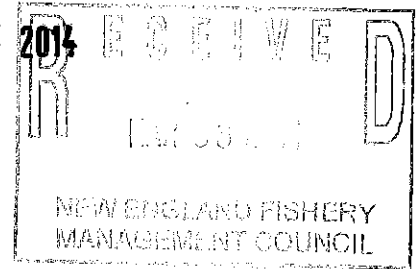


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 1315 East-West Highway
 Silver Spring, Maryland 20910
 THE DIRECTOR

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Mr. E.F. "Terry" Stockwell III
 Chairman
 New England Fishery Management Council
 50 Water Street
 Newburyport, MA 01950

FEB 25 2014



Dear Mr. Stockwell:

Thank you for your letter to Secretary Penny Pritzker expressing the New England Fishery Management Council's (Council) continued concern about the status of the New England groundfish fishery. I am sympathetic to the challenges fishermen are facing and understand the daunting tasks the Council has with managing this particular fishery.

The actions undertaken by NOAA's National Marine Fisheries Service (NMFS) are intended to help the fishing industry in a responsible manner that will not sacrifice future fishing opportunities. We have collaborated with members of the Council and the fishing industry on working groups re-examining the stock status for Gulf of Maine cod and Georges Bank yellowtail flounder. More recently, the Northeast Fisheries Science Center has initiated a novel effort to improve the stock assessment for Georges Bank yellowtail flounder. The Northeast Regional Administrator approved 23 regulatory exemptions for sectors for the 2013 fishing year, and is proposing a similar number of exemptions for fishing year 2014. These exemptions are designed to reduce operating expenses, improve fishing efficiency, and increase profits. As you are aware, we have also funded at-sea monitoring expenses for sector vessels since the inception of the expanded sector program in 2010, including the years that sectors were required to pay for this. NMFS is aware of the challenges that groundfish fishermen are facing and is collaborating with stakeholders to develop management alternatives.

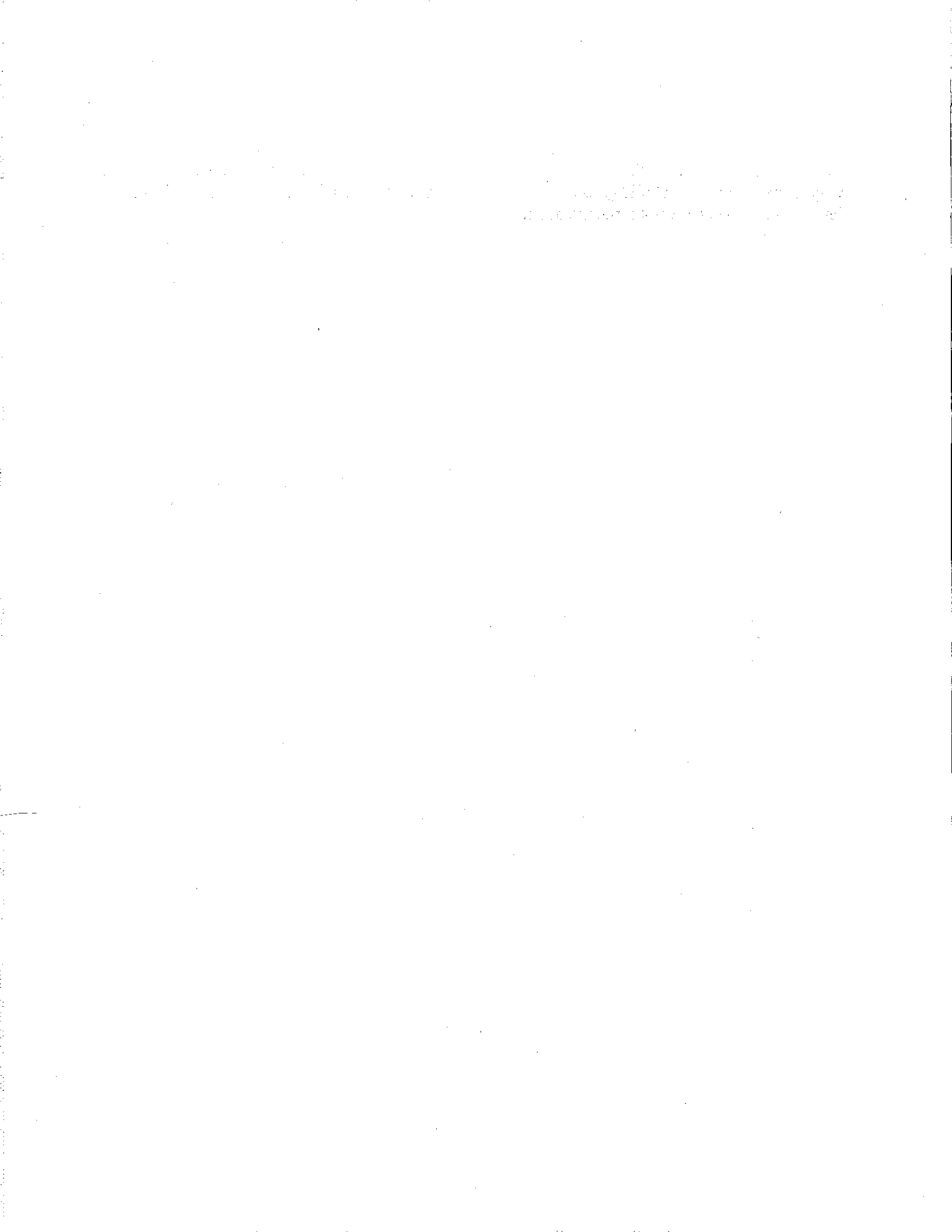
Under the Magnuson-Stevens Fishery Conservation and Management Act, Sections 312(a) and 315, the Secretary may provide disaster assistance for assessing the economic and social effects of a commercial fishery failure, for activities to restore the fishery or prevent a similar failure in the future, and for assisting fishing communities. The disaster funding recently approved by Congress, which is greatly needed, will provide avenues for relief to the industry, and NMFS is working diligently to accelerate this process. Your letter indicates a concern that the fishery disaster declaration be extended. Please be assured that the existing declaration will allow us to disburse available funds and an extension is not necessary at this time.

I admire the Council's dedication to continue working to improve this fishery, and am optimistic that the Groundfish Economic Coordinating Committee that has been set up by the Greater Atlantic Regional Office (formerly known as the Northeast Regional Office) will continue opening doors that may lead to new opportunities. For example, the Committee has already been successful in putting fishermen in touch with the resources offered by the Small Business Administration.

THE ASSISTANT ADMINISTRATOR
 FOR FISHERIES

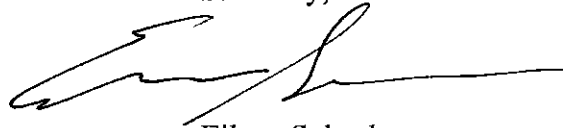


cc: Council, FHJC (3/4)



NMFS staff will continue to collaborate with Council members and staff, members of the fishing industry, and other stakeholders, to create a sustainable fishery. Whether it is through better science, enhanced communications, or more adaptive management measures, we all need to work in partnership to rebuild groundfish stocks while improving the livelihoods of groundfish fishermen. I appreciate your interest in this matter.

Sincerely,

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

Eileen Sobeck
Assistant Administrator
for Fisheries

1. The first part of the document is a list of names and addresses of the members of the committee. The names are listed in alphabetical order, and the addresses are listed below each name. The list includes names such as Mr. J. B. Smith, Mr. W. H. Jones, and Mr. R. L. Brown.



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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

March 10, 2014

Mr. John Bullard
Regional Administrator, GARFO
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

In accordance with provisions of the Magnuson-Stevens Act, I have reviewed the draft regulatory text for Framework Adjustment 51 to the Northeast Multispecies FMP in order to deem whether it is consistent with the framework text and the Council's intent. The review is based on the draft regulatory text provided to the Council on March 6, 2014 and I have concluded that the draft regulatory text implementing Framework 51 measures is consistent with Council intent.

I am making the deeming determination as acting Council Chair in Terry Stockwell's absence. Terry will follow up to confirm the ratification upon his return.

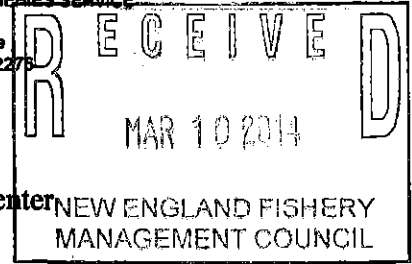
Please feel free to call me with any concerns.

Sincerely,

John F. Quinn, Esq.
Vice Chairman



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2278



MEMORANDUM FOR: William A. Karp, Ph.D. MAR -6 2014
Director, Northeast Fisheries Science Center NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

FROM: John K. Bullard
Regional Administrator

SUBJECT: Request for Projected Future Northeast Groundfish Revenue
Information for Potential Industry Buyback Business Plan
Development

As you may know I have convened a Northeast Groundfish Economic Coordinating Committee to discuss potential assistance and mitigation measures for industry during the ongoing groundfish disaster. The group is composed of industry, local government, Council staff, sector representatives, and NMFS personnel. Much of this group's work has focused on potential flexibilities within the management structure or what external assistance may be obtained from partner Federal agencies.

I have formed a sub-group to discuss the development of a an industry-designed permit buyback under the Magnuson-Stevens Act section 312(b)-(c), the potential application of Federal disaster funds for a permit or vessel buyout, or some combination of industry and disaster funds to reduce groundfish fleet capacity. A *buyback* would be an industry-designed program wherein the remaining fishery participants would repay a loan used to purchase eligible permits. By contrast a *buyout*, while also heavily involving industry in development, would buy permits using appropriated funds like those made available through disaster appropriations. This group is led by Harry Mears, my Assistant Regional Administrator for Operations and Budget, with assistance from other Regional Office and Headquarters staff.

The Vessel Buyback Working Group met on February 18, 2014. During this meeting, the participating fishing industry representatives stated that there is strong support to more fully develop a buyback program for eventual consideration under a required referendum. They also stated that the next step in developing a buyback business plan to keep the process moving forward is to obtain information on potential future groundfish revenues. This potential income projection information is needed by industry to begin evaluating the ability of the remaining fishery participants to repay the fishery capacity reduction loan. This information will also be critical for permit holders as they evaluate the potential future worth of their permit in constructing eventual buyback bids.

The Regional Office staff does not have the expertise needed to provide the future revenue analyses. I strongly support the current industry initiative to develop a buyback program for capacity



cc: Council, FID, JC (3/11)

reduction. I request that your staff from the Social Science Branch (SSB) develop one or more appropriate future revenue projections for industry consideration. It has been some time since a buyback program has been seriously considered in the northeast. Information on recent buyback programs can be found on the NMFS financial services web site:

http://www.nmfs.noaa.gov/mb/financial_services/buyback.htm. Our point of contact from NMFS Headquarters Financial Services is Michael Sturtevant, should your staff have questions about previous buyback programs and the supporting analyses used in the business plan development.

I acknowledge that the requested analyses have not been part of previous priority discussions and that SSB staff are, like us all, engaged in many concurrent time-sensitive projects. If there needs be a tradeoff among competing tasks so that this work can be accomplished in the near-term, I suggest that we have that discussion at your convenience.

As always, we appreciate your support.

cc: John Walden, Acting Chief, Social Science Branch
Chad Demarest, Social Science Branch
Matt McPherson, Acting Chief, READ Division
Michael Sturtevant, Office of Financial Services, NMFS Silver Spring
Vessel Buyback Working Group



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

March 17, 2014

Mr. John Bullard
Regional Administrator
NMFS, Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

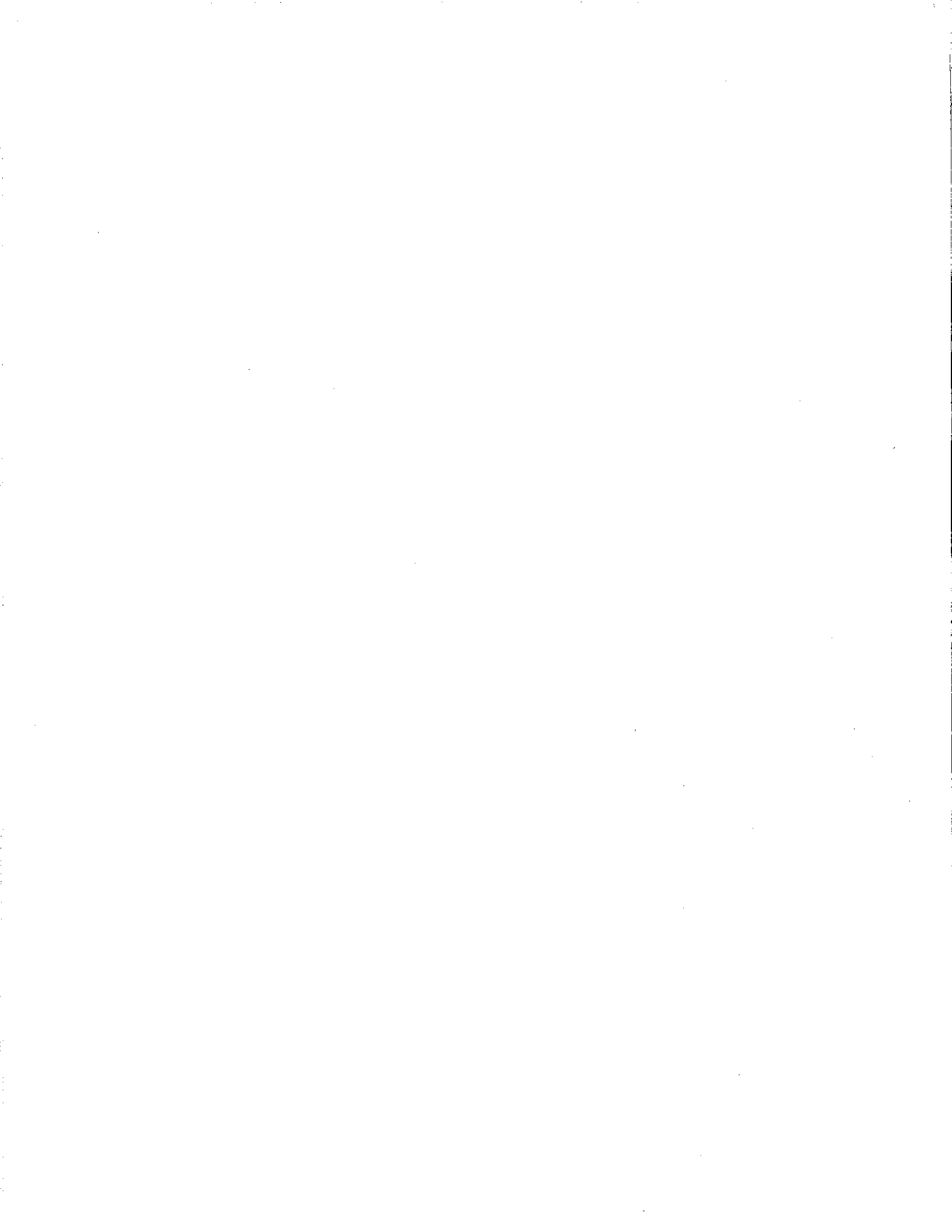
In accordance with provisions of the Magnuson-Stevens Act, I have reviewed the draft regulatory text for Framework Adjustment 51 to the Northeast Multispecies FMP in order to deem whether it is consistent with the framework text and the Council's intent. The review is based on the draft regulatory text provided to the Council on March 6, 2014 and I have concluded that the draft regulatory text implementing Framework 51 measures is consistent with Council intent.

I am making the deeming determination to confirm my ratification as a follow-up to the deeming letter from acting Council Chair, John Quinn dated March 10th, 2014 sent in my absence.

Please feel free to call me with any concerns.

Sincerely,

E.F. "Terry" Stockwell III
Chairman

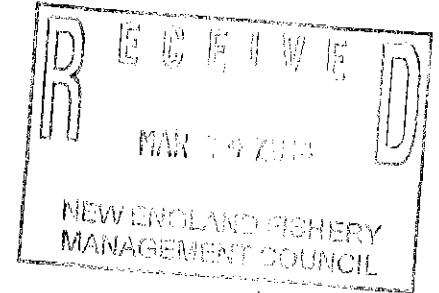


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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

MAR 11 2014



Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Comments on Framework Adjustment 51 (FW 51) to the Northeast Multispecies Fishery Management Plan

Dear Tom:

The Council submitted a preliminary draft of FW 51 on January 22, 2014. We completed an expedited review of the draft FW 51 document, and provided your staff with three substantive comments that were required to ensure the document is consistent with applicable law (attached). Your staff have already addressed these comments necessary for formal submission, so I have attached the comments only for your records. We received the Council's formal submission of FW 51 on February 24, 2014, and no further edits are necessary to the draft FW 51 document at this time.

If you have additional questions on the review of FW 51, please contact Sarah Heil. We appreciate your quick turnaround of this document, given the short timeline for this action.

Sincerely,

John K. Bullard
Regional Administrator

Attachment



cc: Council, FH, JC (3/19)

Substantive Comments

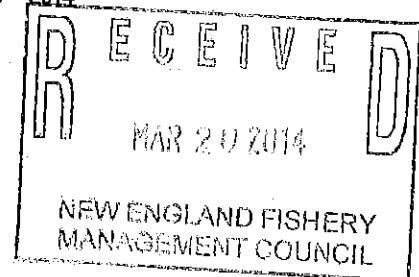
Section		Page	Comment
3.2	Purpose and Need	26	Revise to better reflect how the purposes meet the needs of this action (suggested revisions were provided by Regional Office staff)
6.4	Affected Environment, Protected Resources Section	91	Update the language about Atlantic sturgeon to ensure it is compliant with the recent "batch" biological opinion. (necessary updates were provided by Regional Office staff)
7.6	Cumulative Effects Analysis	222	The potential impacts of Atlantic Sea Scallop Framework 25, specifically the expected catch of Georges Bank (GB) yellowtail flounder by the scallop fishery under the preferred alternative, must be discussed within this section. The analysis must describe, based on the indirect and direct impacts analysis in Framework 25, what the likely cumulative impacts are if the scallop fishery causes the overall annual catch limit of GB yellowtail flounder to be exceeded.



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

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

MAR 20 2014



Dear Tom:

As you are aware, the Recreational Advisory Panel (RAP) and Council provided alternatives in February for the agency to consider as part of the recreational fishery proactive accountability measure consultation process. None of the alternatives provided by the RAP or Council result in measures with at least a median probability of projected catch that is at or below the FY 2014 recreational sub-annual catch limits (ACLs) for GOM cod and haddock. In addition, the Council requested specific analyses of possession limit reductions. I wanted to update you and the Council on additional analyses that have been conducted for potential fishing year (FY) 2014 Gulf of Maine (GOM) cod and haddock recreational management measures.

Staff from the Northeast Fisheries Science Center's Social Science Branch (SSB) did additional analyses to evaluate potential combinations of possession limits, as requested by the Council. This was done in conjunction with the minimum fish size (21 inches for both species) and fishing seasons (Wave 5; September-October closure for both species) in the Council's second set of recommendations. Recall that the per-angler retention of both stocks is fairly low. Information from the Marine Recreational Information Program (MRIP) indicates that, on average, slightly more than 1 cod and less than 1 haddock were retained by anglers on trips that caught these species in FY 2013. As was pointed out during the RAP and Council meetings, these low retention rates mean that possession limits must be made very low to effect a catch reduction in the analysis. The results from these exploratory model runs indicate that possession limits of 2 cod and 3 haddock would be necessary in conjunction with a 21-inch size limit and fall closure for both stocks to provide a median probability (i.e., 50% chance) of reducing catches to the proposed sub-ACLs. We believe reductions of this magnitude for both fish would not be supported by the majority of recreational fishery participants.

We are assessing potential measures that are more restrictive than those recommended by either the RAP or Council but not as onerous as the substantial possession restrictions we've analyzed. Our objective is to find measures that ensure a median probability of being successful at constraining recreational catch to the catch limits but strike a balance between conservation and recreational fishing opportunity. We are analyzing potential season-wide changes in the haddock possession limit and closures that could be effective in the 2015 March and April component of the fishing year.




The timing involved with modifying recreational management measures is highly constrained by data availability, the need to complete complex modeling, and the Council consultation requirement. Because there is insufficient time to conduct notice-and-comment rulemaking and ensure measures are in place on or about May 1, 2014, we are likely to implement measures in an interim final rule. We recognize this is less than ideal; however, given the time necessary to complete analyses, develop, review, and obtain clearance for rulemaking documents, this may be the only viable option. We will take public comment on the interim measures and hope to have the rule completed in late April so some amount of advance notice of the FY 2014 changes can be provided before the start of the fishing year. We plan to review the GOM haddock assessment results when they become available and will be prepared to respond, as needed, to the new information in a final rule.

I agree with your March 6, 2014, letter that a better process is necessary for dealing with recreational management measure changes. It is not reasonable to expect that consultation can occur in conjunction with the January meeting cycle given the delivery date for Wave 5 MRIP data and the need to conduct modeling. I believe we can collaborate to find options that work within the timing constraints we face.

Susan Murphy is the lead for our groundfish team. Please direct any questions you may have to her. She can be reached at (978) 281-9252 or via e-mail at Susan.A.Murphy@noaa.gov.

Sincerely,



 John K. Bullard
Regional Administrator

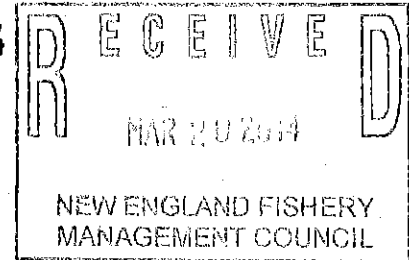
Cc: Dr. Bill Karp, Director, Northeast Fisheries Science Center
Mr. John Walden, Acting Chief, Social Science Branch, Northeast Fisheries Science Center
Mr. Frank Blount, Chair, Groundfish Oversight Committee
Mr. Barry Gibson, Chair, Recreational Advisory Panel
Dr. Jamie Cournane, Groundfish Plan Development Team Coordinator and Council Staff



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

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

MAR 20 2014



Dear Tom:

Framework Adjustment 48 to the Northeast Multispecies Fishery Management Plan reduced the minimum size limit for several groundfish stocks. In a June 5, 2013, letter to us, the Council requested that we monitor catch of these groundfish stocks to determine whether fishermen are targeting smaller fish or if the size composition of landings changes, both of which could have negative impacts on the fishery.

In our September 12, 2013, response to the Council, we explained that our current fishery dependent data system was not designed for real-time monitoring of size frequency of catch. We also reported that we modified our port sampling procedures to monitor landings of smaller market categories of fish. We noted that some dealers had resurrected old market categories for smaller fish and were selling them at a lower price. Because of the lower price, it appeared that there was not a strong economic incentive to target smaller fish.

Since our last letter, our routine port sampling program has identified the landings of fish between the old and new minimum sizes for all species where the limits were changed (cod, haddock, witch flounder, yellowtail flounder, plaice, and redfish). Recently, our Port Agents have reported a few instances where a very large portion of redfish offloaded to dealers were less than the previous minimum fish size of 9 inches (current minimum fish size is 7 inches). We also have been seeing large catches of small redfish (between 7 and 9 inches) being utilized for bait, and some dealers are offering a market price for these fish that may be creating an incentive for vessels to target smaller redfish.

For haddock, where the minimum fish size decreased from 18 inches to 16 inches, many dealers have started culling out the smallest haddock and have reinstated the "snapper" cull. These fish have been averaging about 17 inches and are mixed into the "scrod" cull, if snapper is not being used as a market category. It is difficult for us to know at this point if fishermen are in fact targeting smaller haddock or if the smaller haddock are part of the anticipated large 2010 year class of Georges Bank haddock; however, we thought it important to inform you of what we are seeing on the docks.



Because it appears that industry may be shifting effort onto smaller fish, the Council may want to consider tasking the Groundfish Plan Development Team to look further into this issue.

Sincerely,

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

JCB
John K. Bullard
Regional Administrator

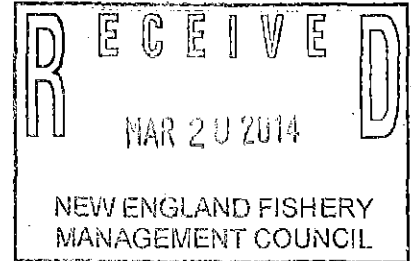
cc: Tom



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Mr. Marc Stettner
Northeast Hook Fisherman's Association
91 Fairview Avenue
Portsmouth, NH 03801

MAR 19 2014



Dear Marc:

We received your January 1 and February 10, 2014, requests for rulemaking under the Administrative Procedure Act (APA). I can appreciate that the current low common pool quotas are making for very challenging times for all fishermen, including those in your association. However, I am writing to inform you that NOAA Fisheries Service will not be proposing the regulatory changes you requested.

In your letter, you requested several changes for handgear fishermen in the Northeast multispecies common pool fishery, including repealing the trimester Total Allowable Catch (TAC) system put in place by Amendment 16 to the fishery management plan (FMP). You also requested new rules to allow continued retention at low trip limits on stocks for which 90 percent of the common pool catch limit has been harvested, provisions to allow up to 10 percent of unharvested quota to be carried over for use in the next fishing year, changes to the common pool accountability measures, and a one-time carryover of unused fishing year (FY) 2013 trimester 3 TAC to FY 2014.

NOAA Fisheries is authorized to prepare an FMP amendment if the Council fails to act in a reasonable time when a fishery requires conservation and management under section 304(c)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Or, NOAA Fisheries may take emergency action to address an emergency or overfishing under section 305(c) of the MSA. An emergency rulemaking allows actions to prevent economic loss or preserve economic opportunity when the emergency results from recent, unforeseen events or recently discovered circumstances. Emergency rulemaking also must outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as expected under the normal rulemaking process. Our policy directive for emergency actions, published in the *Federal Register* on August 21, 1997 (66 FR 44421), specifically states that highly controversial actions or those with serious economic consequences should be addressed through the normal APA process except under exceptional circumstances.

Your requests do not rise to the level of requiring emergency action and are best addressed through the New England Fishery Management Council. The circumstances you cite--trimester closures and the inability to exceed catch limits of low catch limit stocks--were foreseen by the Council, even if the lower limits weren't expected. The low FY 2013 quotas were widely discussed in the year preceding the fishing year and, as you know, a fishery disaster declaration was made before the start of the fishing year. The potential interaction between the low overall quotas and the trimester closures, while difficult, cannot be reasonably



argued to be recent or unforeseen. Your proposed changes are also substantial, and they affect more than the fishermen you represent. The Council process can consider input from a broad array of interests that could provide a better range of alternatives to meet the FMP's goals and objectives and comply with the MSA. Consequently, the Council's deliberative decisionmaking process provides the best forum to engage potentially affected common pool fishermen.

Many of the issues your letters mention may be addressed by the Amendment 18 handgear alternatives the Council will be analyzing and discussing in the coming months. As you are aware, at its February meeting in Portsmouth, NH, the Council adopted several Handgear A-related measures for analysis as alternatives in Amendment 18 to the Northeast Multispecies FMP. I believe the open deliberative Council process is the best forum for discussing the potential common pool changes you have put forward.

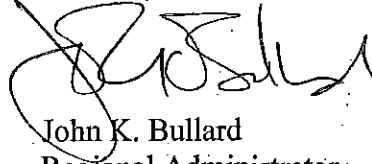
The trimester TAC system was previously approved and implemented by us at the recommendation of the Council. When we approved the trimester TAC system, we determined that it and common pool management measures were consistent with MSA National Standards, other provisions of the MSA, and other applicable law. The changes regarding continued possession rather than closures when trimesters quotas are nearly fully harvested, carryover, and accountability changes are all issues that are better suited to be discussed and developed through the Council's process, not unilaterally changed by NOAA Fisheries Service.

In particular, the request to rollover unused FY 2013 Trimester 3 TAC to FY 2014 and exemption from catch limit overages would appear to be inconsistent with the annual catch limit requirements established by the MSA and the guidelines for implementing the Act's National Standard 1. This is because the addition of this carryover would provide a potential catch level well in excess of the common pool catch limit. As you may be aware, we have had extensive discussions with the Council regarding carryover and took action in conjunction with Framework Adjustment 50 implemented for this fishing year to clarify how the existing sector 10-percent system will function to ensure full accountability and consistency with National Standard 1 guidelines. Your proposal for both the 10-percent carryover and rolling over unused Trimester 3 TAC requests are inconsistent with our recent carryover system clarification. You have stated that such an action would not compromise stock rebuilding. The amounts involved relative to the fishery as a whole would be fairly small. However, such an action would be a *de facto* allocation increase to the common pool fishery beyond the level established by the FMP in addition to being inconsistent with current carryover practices. Again, I believe the Council process is better suited to discuss changes of this magnitude for the common pool fishery.

I appreciate that from your perspective an annualized common pool catch limit is more appealing; however, my staff have heard from other common pool participants that they prefer to continue operating under trimesters. I believe the Council's deliberative decisionmaking process provides the best forum to engage potentially affected common pool fishermen. In situations such as this where affected participants have a divergent view of which process may be best, the Council proceedings provide a transparent, participatory process in which consensus and, if need be, compromise can be achieved. I would be particularly interested in hearing from a cross section of common pool participants to better understand if the Council's rationale for using trimesters remains relevant and applicable in low quota situations.

I understand that low quota stocks can effectively close the common pool when harvested, preventing access to more abundant stocks. This is also an issue for sector vessels as they must cease operations when allocations are exhausted for low quota stocks. This has been and continues to be a concern for me and the Council as well as industry. A collaborative effort between the Regional Office and Northeast Fisheries Science Center is underway to examine with industry both the causes of underharvest in the groundfish fishery and potential collaborative solutions to better ensure that optimum yield is realized. Mark Grant from my staff is available to answer questions about these workshops and their goals and objectives. He can be reached by e-mail at Mark.Grant@noaa.gov or at (978) 281-9145. If you'd like to discuss the agency's response to your rulemaking request, contact my Sustainable Fisheries Staff groundfish team lead, Susan Murphy. Her contact information is Susan.A.Murphy@noaa.gov or at (978) 281-9315.

Sincerely,



John K. Bullard
Regional Administrator

Cc: Mr. Thomas A. Nies, Executive Director, New England Fishery Management Council
Mr. Doug Grout, Marine Division Chief, New Hampshire Department of Fish and Game

