

# Correspondence

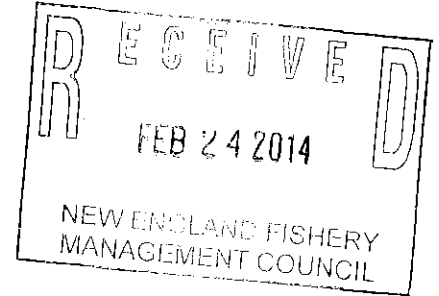
Received since the Jan/Feb Council meetings



# 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.

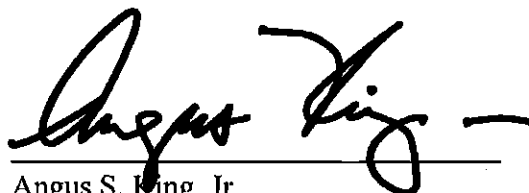
*cc: Corni, FH, JC (2/27)*

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.

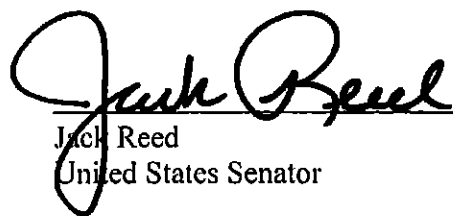
Sincerely,



Susan M. Collins  
United States Senator



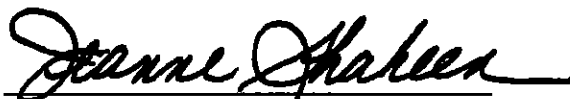
Angus S. King, Jr.  
United States Senator



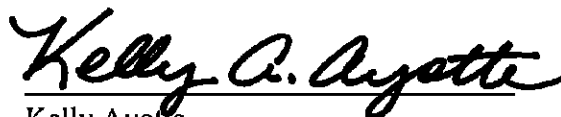
Jack Reed  
United States Senator



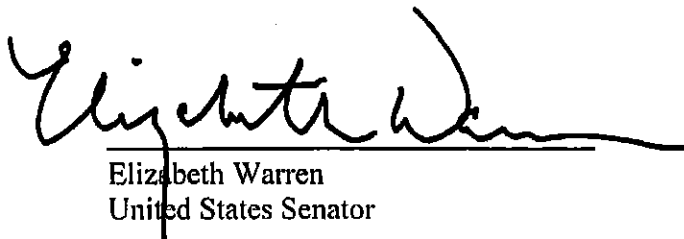
Sheldon Whitehouse  
United States Senator



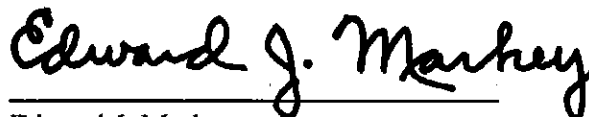
Jeanne Shaheen  
United States Senator



Kelly Ayotte  
United States Senator



Elizabeth Warren  
United States Senator



Edward J. Markey  
United States Senator



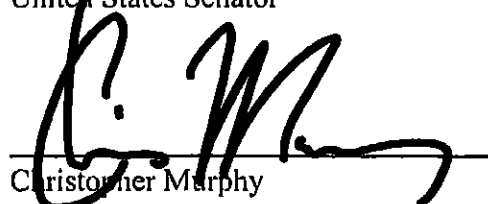
Charles E. Schumer  
United States Senator



Kirsten E. Gillibrand  
United States Senator



Richard Blumenthal  
United States Senator



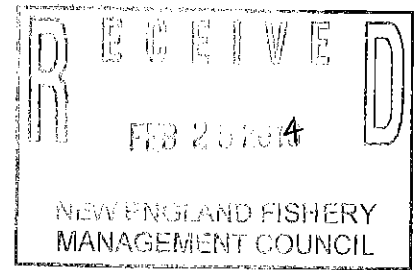
Christopher Murphy  
United States Senator

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)*

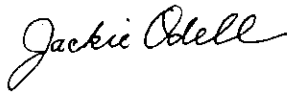
- The AM only applies to groundfish. Groundfish caught 100.5% of the 2012 sub ACL yet the large AM area was triggered.
- The groundfish industry will be prepared to submit an alternative AM that will provide improved accountability to the sub-ACL.

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



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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*

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

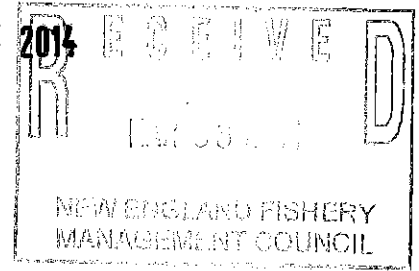


**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
 NATIONAL MARINE FISHERIES SERVICE  
 1315 East-West Highway  
 Silver Spring, Maryland 20910  
 THE DIRECTOR

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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.

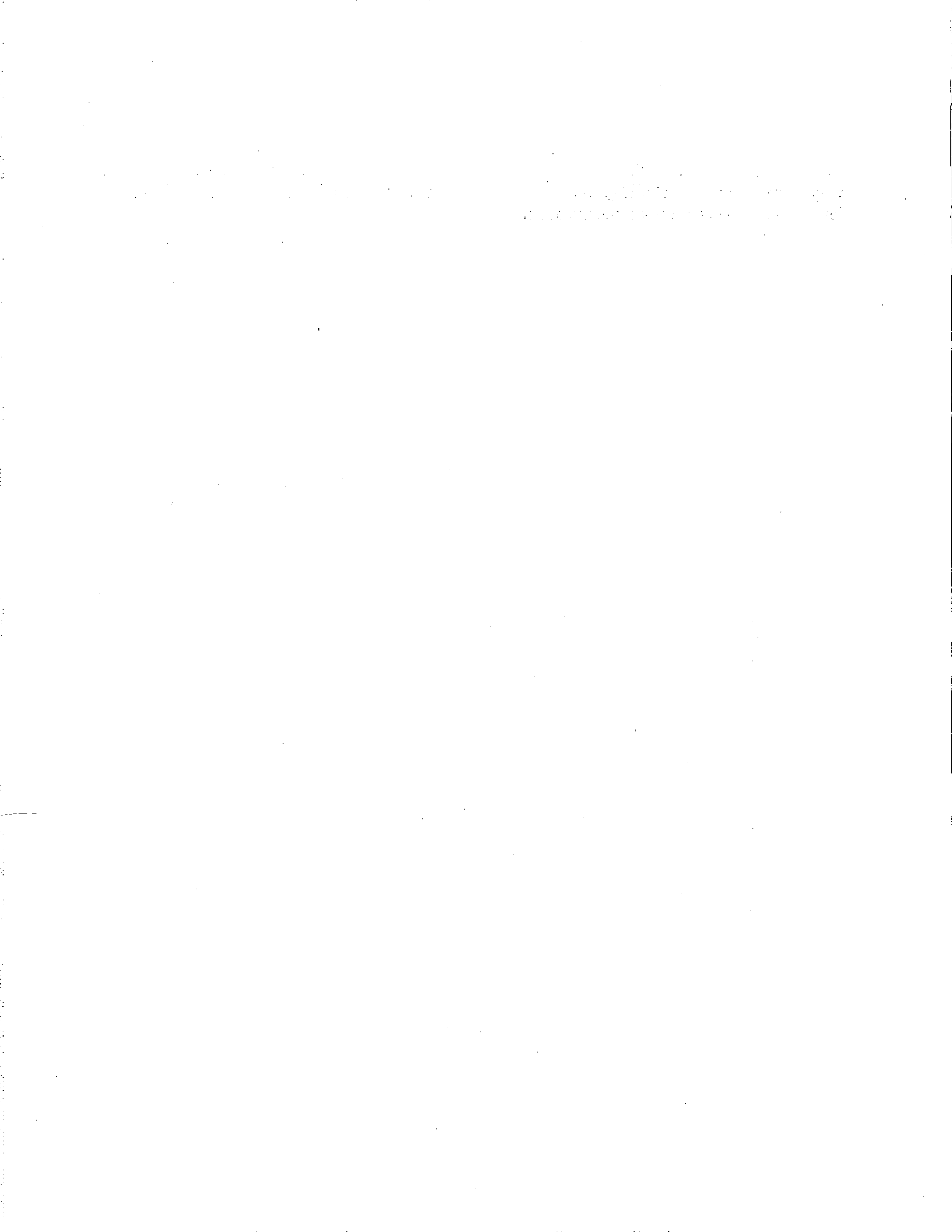
Under the Magnuson-Stevens Fishery Conservation and Management Act, Sections 312(a) and 315, the Secretary may provide disaster assistance for assessing the economic and social effects of a commercial fishery failure, for activities to restore the fishery or prevent a similar failure in the future, and 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

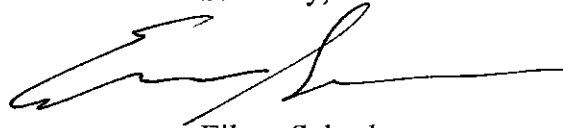


cc: Council, FHJC (3/4)



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

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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,

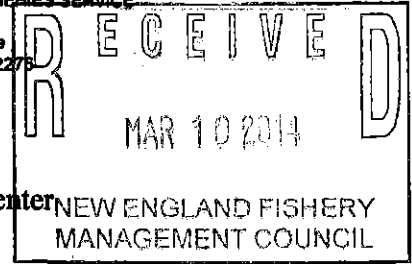
John F. Quinn, Esq.  
Vice Chairman







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  
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](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:

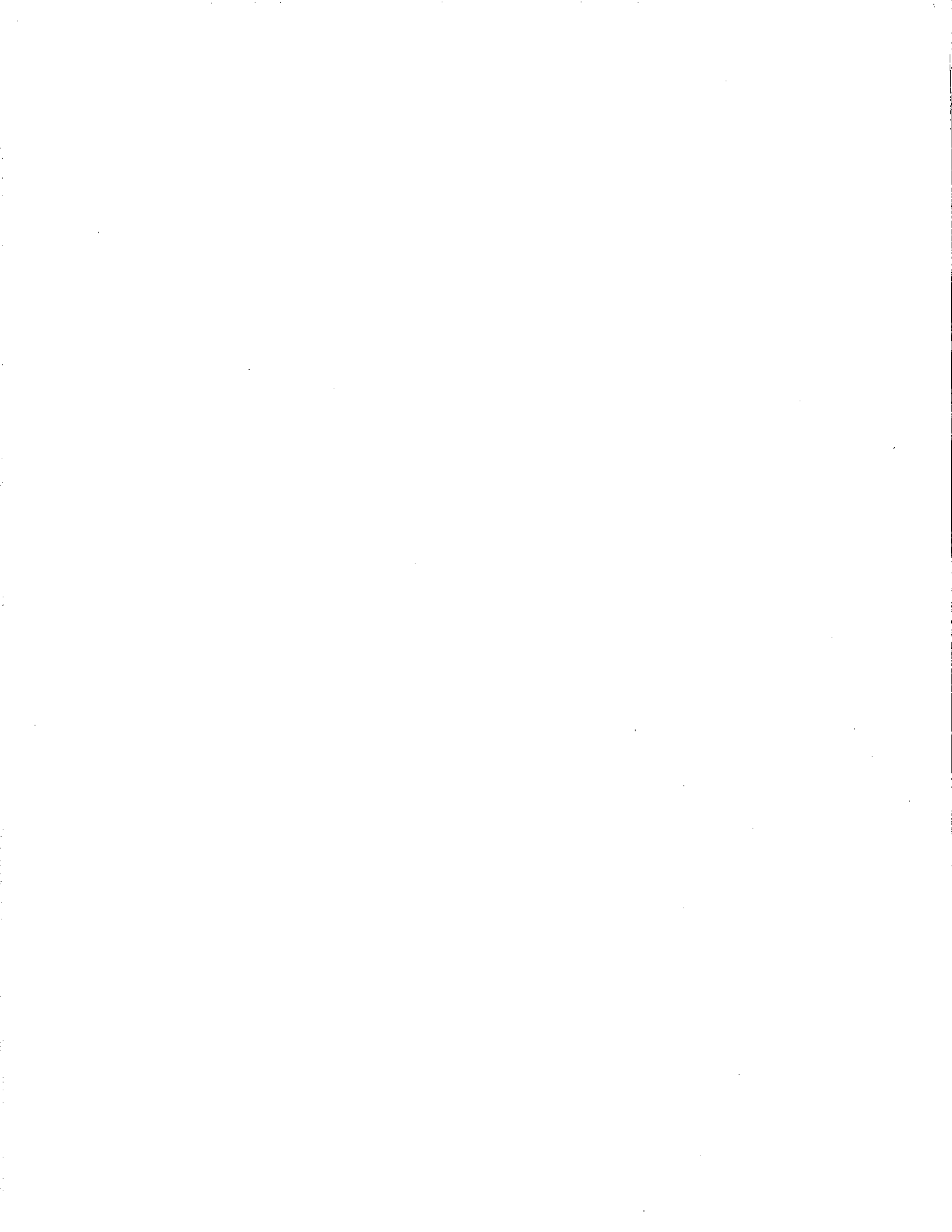
In accordance with provisions of the Magnuson-Stevens Act, I have reviewed the draft regulatory text for Framework Adjustment 51 to the Northeast Multispecies FMP in order to deem whether it is consistent with the framework text and the Council's intent. The review is based on the draft regulatory text 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 10<sup>th</sup>, 2014 sent in my absence.

Please feel free to call me with any concerns.

Sincerely,

E.F. "Terry" Stockwell III  
Chairman

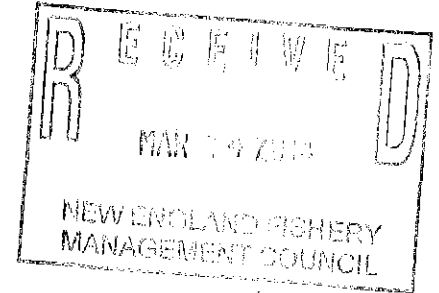


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UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

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

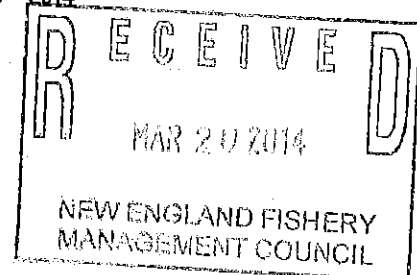
Section		Page	Comment
3.2	Purpose and Need	26	Revise to better reflect how the purposes meet the needs of this action (suggested revisions were provided by Regional Office staff)
6.4	Affected Environment, Protected Resources Section	91	Update the language about Atlantic sturgeon to ensure it is compliant 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](mailto: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

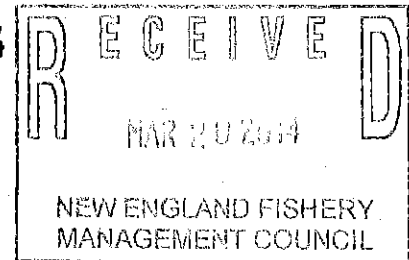




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

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 be 'JKB', followed by a horizontal line extending to the right.

*JKB*  
John K. Bullard  
Regional Administrator

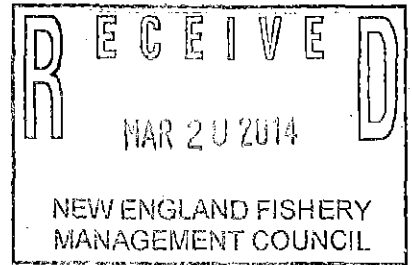
cc: Tom



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

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.

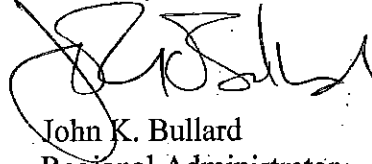
The trimester TAC system was previously approved and implemented by us at the recommendation of the Council. When we approved the trimester TAC system, we determined that it and common pool management measures were consistent with MSA National Standards, other provisions of the MSA, and other applicable 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.

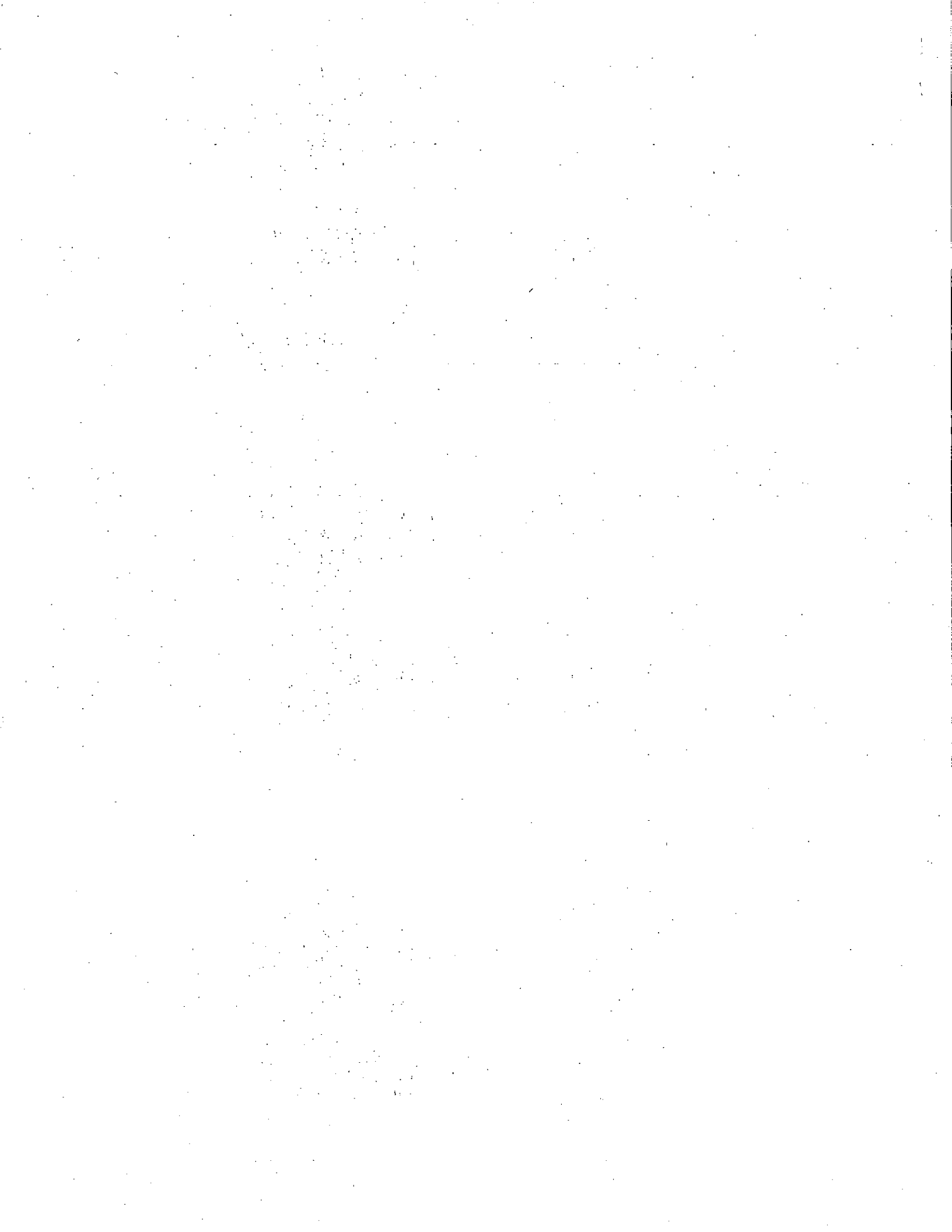
I understand that low quota stocks can effectively close the common pool when harvested, preventing access to more abundant stocks. This is also an issue for sector vessels as they must cease operations when allocations are exhausted for low quota stocks. This has been and continues to be a concern for 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](mailto: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](mailto: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



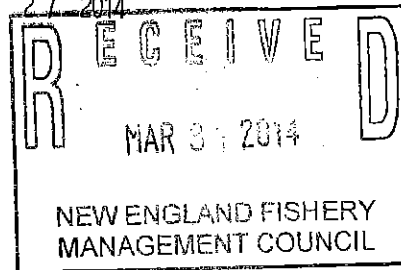
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UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
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55 Great Republic Drive  
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Thomas A. Nies  
Executive Director  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

MAR 27 2014



Dear Tom:

Your letter of February 11, 2014, included a number of questions regarding confidentiality of information as it applies to catch share programs. As you know, these are very complex questions and the interpretation of the confidentiality provisions in the Magnuson-Stevens Act (MSA) has evolved as the consideration and use of catch shares has grown. We answer some of your questions in this letter, but others require further consideration and will be answered in the future.

On May 23, 2012, NOAA Fisheries published a proposed rule (77 FR 30486) that would revise regulations to implement confidentiality requirement changes that were included in the 1996 and 2006 reauthorizations of the MSA. The comment period for that proposed rule has closed, but a final rule remains in development.

The MSA requires that all information submitted to NOAA Fisheries, a state fishery management agency, or a marine fisheries commission in compliance with MSA requirements be kept confidential. That confidential information must not be disclosed unless certain exceptions apply. Information may be released in aggregate or summary form as long as it does not disclose the identity or business of the person who submitted the information. Pending publication of a final rule implementing revised regulations, we have answered your questions below based on current practice. These answers may need to be revised depending on further analysis or changes provided in the final rule.

**Catch History**

1. Why was a data confidentiality exception made in the case of groundfish catch history?
2. Why is this not possible in the case of monkfish?
3. Please articulate why stock-specific PSC held by specific multispecies permit holders may be released to the public.

The MSA confidentiality provisions at § 402 prohibit disclosure of information that is submitted to the agency in compliance with any MSA requirement, with a few exceptions. One exception you are familiar with is that the agency may release information that is aggregated in a manner that protects the confidentiality of the data and the submitter of the information. Another exception at § 402(b)(1)(G) allows disclosure of information that is required to be submitted to the agency for any determination under a limited access program. We have interpreted this exception to apply to agency determinations concerning allocations and monitoring of fishing privileges in a limited access fishery management plan (FMP), such as catch allocations in the NE multispecies FMP.



cc: Council, Staff (3/31)

approvals or denials of transfer of allocations, and end of season adjustments. Further, information is released at the level the determination is made. For example, information relating to a determination of a vessel's compliance with an individual allocation would allow the release of vessel-level catch and allocation transfer information. If the determination involves a sector's annual catch entitlement (ACE), then sector level catch and amount (pounds) of ACE transfers would be releasable.

In the NE multispecies FMP, we used individual permit catch history from fishing years (FY) 1996-2006 to calculate each limited access permit's Potential Sector Contributions (PSC). Permit PSCs represent historic landings history of a permit that are combined within each sector to determine a sector's ACE, which are instrumental in monitoring groundfish catch and compliance with annual catch limits. Because we used this catch information to make a determination under the NE multispecies FMP, the information was considered to be excepted from confidentiality protection under § 402(b)(1)(G). As a result, this information was released to current permit holders in 2009 after the New England Fishery Management Council selected qualifying criteria for us to determine PSCs. Because sub-trip level data were considered necessary to verify the catch information to ensure accurate allocation determinations, the information was considered at the time to be excepted from confidentiality protection and included in this release.

Monkfish catch history was not released to permit holders under the § 402(b)(1)(G) exception because we were not using this information to make a determination for the monkfish FMP. The Council requested monkfish catch data on February 4, 2013, but neither the Council nor the Mid-Atlantic Fishery Management Council had selected qualifying criteria for us to use to make any determination under the monkfish FMP. For example, no qualifying period was set to determine individual fishing allocations. Without qualifying criteria, it is impossible for us to identify information that would qualify under the exception or would fall outside of the relevant timeframe and remain confidential.

In comparison, several other Northeast fishery management programs (Atlantic Sea Scallop Limited Access General Category, Golden Tilefish, Surfclam and Ocean Quahog) require us to determine whether the harvest made under an individual fishing allocation was higher or lower than the allocation. Some of these programs also require allocation holders to pay a cost recovery fee, based on ex-vessel value of landings, to support program administration and enforcement costs. Therefore, the confidential information used for these determinations (allocations, allocation transfers, catch, and landings) would be releasable at the annual summary level for each allocation holder.

PSCs are not confidential under § 402(b). First, they are not information required to be submitted to the agency. Rather, they are the results of agency calculations. Second, even if the individual catch history component of PSC calculations caused PSCs to be considered information submitted to the agency by fishing vessel owners, the agency uses PSCs to make sector ACE determinations. Because they are used to make ACE determinations, they would be excepted under § 402(b)(1)(G) as information used by the agency to make a determination in the groundfish FMP.



### Value of ACE/Quota Trading

4. Can information be released on the extent of ACE or quota trading between individual sectors or vessels?
5. Is the value of ACE trading by specific sectors public?
6. If so, please explain why an exception to the MSA data confidentiality provisions applies.

As noted above, the MSA's confidentiality provisions apply to information required to be submitted to us by any person. The MSA definition of a person at § 3(33) includes any corporation, partnership, association or other entity. A sector is a "person" under this definition. Sectors provide ACE transfer submissions and year-end reports to the agency. Because sectors submit this information to the agency in compliance with NE Multispecies FMP requirements, it is confidential. Much of this information is not used to make a determination under the groundfish FMP and may not be released as an exception under § 402(b)(1)(G). Information about the amount (pounds) of each stock involved in an ACE transfer is used to make a determination about sector compliance with ACEs. Therefore, it may be released under § 402(b)(1)(G).

ACE, the annual allocation of a fish stock to a sector, is determined by multiplying the sector members' cumulative PSC of a stock by the appropriate sub-ACL. An ACE transfer between two sectors must be submitted to the agency for approval or disapproval. Each application to transfer ACE must include the amount(s) of the stock(s) and compensation information. Each sector is required to provide more detailed information on ACE transfers in the year-end report. This includes tying each ACE transfer to individual sector members when appropriate. Additionally, the year-end report must include similar details of any internal transactions between members if the sector sub-allocated its ACEs. The amount of each stock involved in an ACE transfer from the year-end reports is used to determine compliance with the allocations made to the participating sectors. The information from ACE transfers and year-end reports used to make a determination of compliance with sector allocations (i.e., pounds of each stock in each trade) is releasable under § 402(b)(1)(G). In contrast, financial information regarding ACE transfers currently is not used to make a determination and based on this reasoning is not releasable.

### Annual Reports

7. Could formal recognition as a non-profit permit bank be conditioned on an agreement that the permit bank's annual report would be made public and contain data that would otherwise be confidential?
8. What data could be released under such an exception, consistent with the exceptions provided in the MSA?
9. What are the limits to the types of determination that would authorize a release of data under section 402(b)(1)(G) of the MSA?
10. Does this apply to data collected to verify management measures are meeting the objectives of the management plan?
11. Please explain the rationale.

The answer to your question about whether non-profit permit banks may be required to disclose confidential reports is not simple. Release of this information may be authorized, but this depends on substantial analysis and consideration of many factors as described in part below. In summary, it may be releasable if the information is necessary for a determination (e.g., whether the permit

holder qualifies to be a non-profit permit bank). Or, it may be releasable if disclosure of the subject records is necessary to meeting the FMP's goals and objectives in compliance with the MSA.

We already described the rationale for releasing information that is necessary for a determination. The same principle would apply to annual reports submitted by non-profit permit banks. If the information is necessary for an annual determination, then it could be released. If disclosure is not necessary for a determination on an annual basis, then there must be another identifiable public interest in disclosure that is consistent with the MSA and outweighs the interest in maintaining confidentiality of the information.

As a general matter, a statutory right conferred on a private party, but affecting a public interest, may be waived or released if that waiver or release is consistent with statutory policy. This principle is consistent with the "routine use" exclusion from Privacy Act protections that allows disclosure of a record that is compatible with the purpose of the record's collection. Trade Secrets Act protection also applies to a sector record submitted to us, which allows release of a record only as authorized by law. Any Council action seeking to condition a permit on a waiver of MSA confidentiality protection must consider these principles and tailor any exception to confidentiality protection to the purpose of the MSA and the FMP's goals and objectives. We would then need to consider whether the record sufficiently supports that disclosing the record to the Council or public is necessary to comply with the MSA as compared to the permit bank's interest in maintaining confidentiality of the record.

To help with this consideration, the Council would need to clearly define the purpose of the non-profit permit bank category. Then, it must show how that purpose meets the FMP's goals and objectives consistent with MSA requirements. MSA National Standards 4 and 8 will be particularly relevant to this consideration. For example, under National Standard 4, how will this permit bank category provide for fair and equitable allocations of fishing privileges that are reasonably calculated to promote conservation and prevent acquisition of excessive shares of catch share privileges? Or under National Standard 8, how will this permit bank provide for the sustained participation of fishing communities and, to the extent practicable, minimize adverse impacts on such communities? Other National Standard considerations may also apply, such as National Standard 5's consideration of efficiency in the utilization of fishery resources or National Standard 7's requirement to minimize costs and avoid unnecessary duplication to the extent practicable. In short, the Council would need to develop a robust record for the purpose of creating the permit bank category and how a permit bank is consistent with MSA requirements.

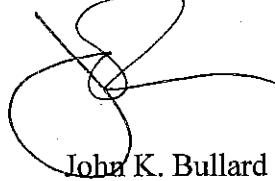
In defining a non-profit permit bank and its purpose, it will be important to differentiate the purpose of a permit bank from a sector and other entities allocated ACE, and how that difference relates to the need for release of the subject record. The Council should consider whether there are differences in a permit bank's privacy interest in the records sought to be disclosed compared to other a sector's privacy interests in similar records. For example, will disclosure of a permit bank's annual report result in any competitive harm to the permit bank? If so, is that harm less or greater than to a sectors or other entity allocated ACE?

In addition to providing a basis for the non-profit permit bank category and how that permit category complies with the MSA, the Council will need to show how disclosure of the sought after records is necessary to meet the FMP's goals and objectives. For example, how is the Council's and public's access to these records required to ensure that the permit bank provides for fair and

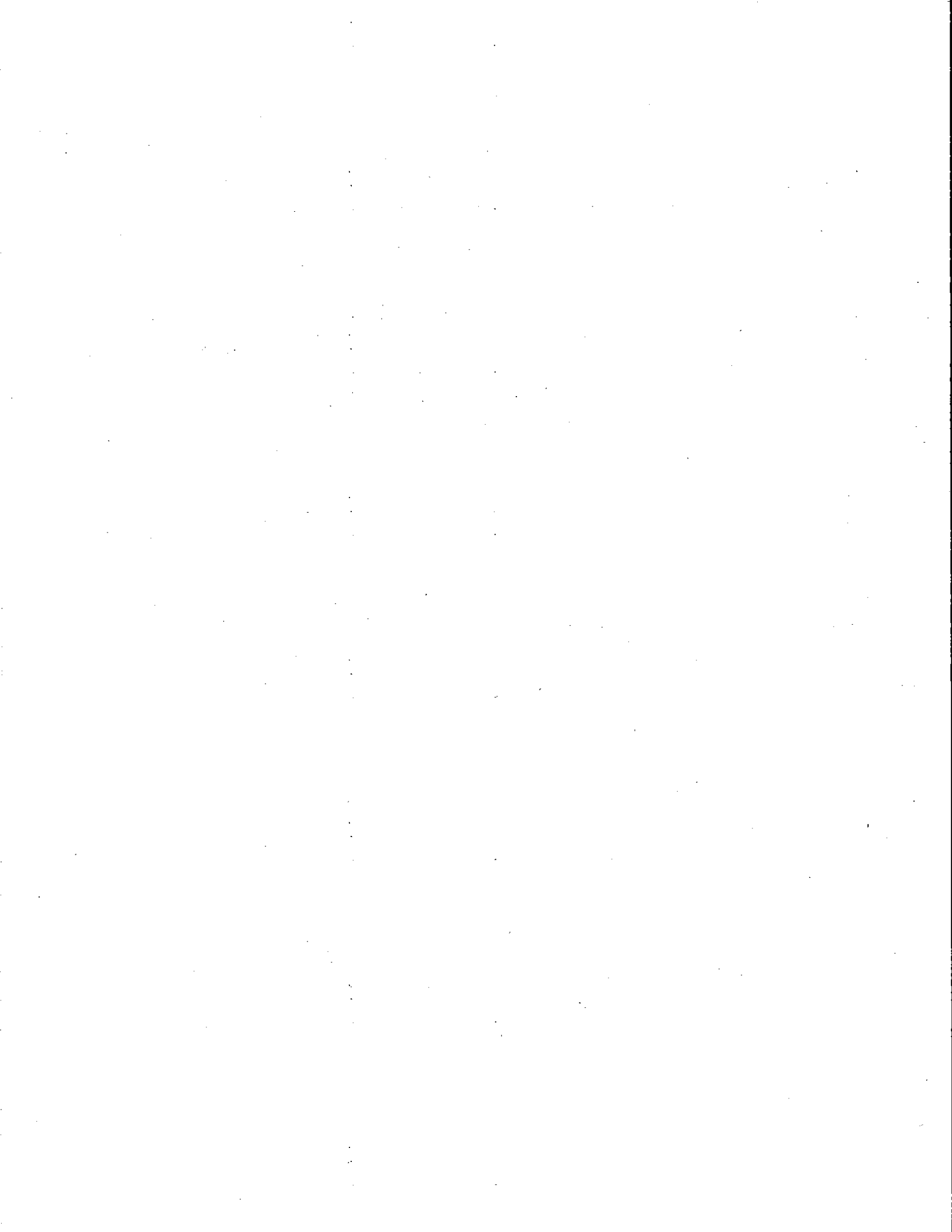
equitable allocations of fishing privileges under National Standard 4? Or, how does disclosure of these records prevent acquisition of excessive shares of catch privileges? Similar questions should be considered for the other National Standards as applicable.

Confidentiality of information is an important issue and questions regarding confidentiality of information as it applies to catch share programs will continue to be complex. When a final rule is published to implement confidentiality requirement amendments we will review our policies and amend them as appropriate. If you have further questions about confidentiality of information please contact Ted Hawes in the Analysis and Program Support Division at 978-281-9296.

Sincerely,

A handwritten signature in black ink, appearing to read 'John K. Bullard', with a large, stylized flourish at the end.

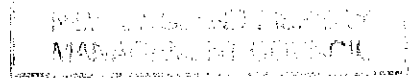
John K. Bullard  
Regional Administrator



**Joan O'Leary**

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**From:** FishingLSister@aol.com  
**Sent:** Monday, March 31, 2014 1:59 PM  
**To:** Karen Roy; Geoff Minsky  
**Cc:** Jamie M. Cournane; Rachel Feeney; Fiona Hogan; Frank Blount; Joan O'Leary  
**Subject:** Re: Welcome to the Recreational Fishing Advisory Panel



Dear Karen and All-

I went to my first RAP meeting up in Danvers on Feb. 19th and I have to say I was quite disillusioned. We were given a pile of "bad data" and were told to vote on it. I was informed by other members that while the data was "bad", it was better than it usually is! Because of the poor data, the only "sensible" recommendation I could make on each of the issues was to have no change (status quo-Option 1). When almost everyone was in agreement on that, "someone" (Pat Pacquette) would be our collective conscience and say we must make a recommendation or "they" (Feds) will make one for us. Then we debated the issue and came up with our recommendations. I was amazed at the sacrifices these men were making. Charter and party boat captains who were already hurt yet "forced" to cut off more of their income. To say they were unselfish would be an understatement!

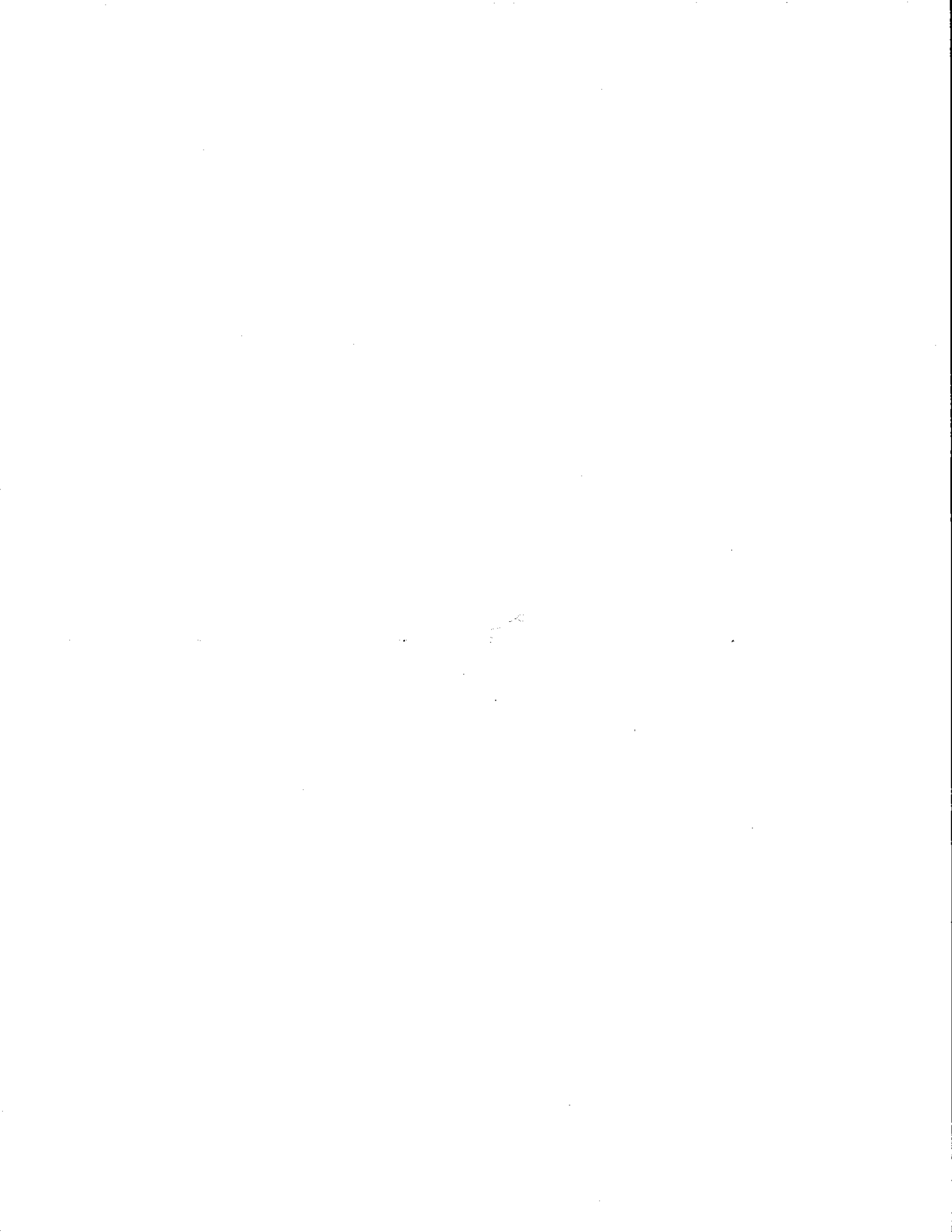
Now I hear that the proposed cuts were not enough! I don't get it... "The problem", as I see it is not rod and reel fishermen but specifically draggers with a lesser, but significant problem with gill nets. The reason I am writing is to ask, when will we (The RAP) get a chance to address the issue of the draggers? Perhaps the RAP does not address that issue at all but I assure you that IF it was addressed "properly", there would be no need for the RAP or any other council. Why is so much effort and sacrifice put into restricting recreational fishing when it is commercial fishing that is doing the lions share of the damage?

Case in point: The (winter) flounder fishing has been getting better and better in Boston Harbor for 15 consecutive years with an ever increasing recreational effort applied each year. In spite of the increased recreational effort, the fishing was still getting better every year. The fish were getting bigger too! Then, with the 77% reduction of cod handed to the dragger fleet for 2013 they simply shifted their efforts to winter flounder and virtually wiped them out in less than one season! There were less than 25% for the flounder in Boston Harbor in 2013 as there were in the several years prior. The resource was simply taken from one user group (recreational anglers) and handed to another (commercial fishermen) for a short term gain that many saw coming and could do nothing about. That is the reason I applied to be a member of the RAP; to make a difference! In the end of the debates, it really does not make a difference if there are 9 or 8 cod or 10 or 12 cod of this or that many inches taken by recreational anglers in the GOM when a couple of draggers can and will destroy all of those fish anyway.

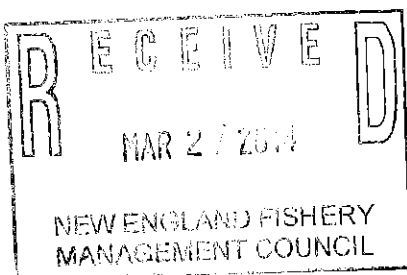
My question is: "When do we start talking about reducing the dragger fleet"?

Thank you!

Captain Jason Colby  
Little Sister Charters  
[fishinglsister@aol.com](mailto:fishinglsister@aol.com)  
617-755-3740  
[www.littlesister1.com](http://www.littlesister1.com)



91 FAIRVIEW AVE  
PORSTMOUTH NH 03801



3

**NORTHEAST HOOK  
FISHERMAN'S ASSOCIATION**

March 27, 2014

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
Thomas A. Nies, *Executive Director*

Dear Groundfish Committee:

We represent a small group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use rod and reel, handlines or tub trawls to catch Cod, Haddock and Pollock along with small quantities of other regulated and non-regulated marine fish. Historically and currently our fishermen account for a small percentage of the groundfish landed in New England. However, the monetary gains obtained by the participants in this fishery are very important to us.

We reviewed the PDT memo of March 21<sup>st</sup> 2014 and our comments are below for each alternative presented:

### ***Quota allocation system***

**Sub-Option B.** Voluntary. Holders of HA permits may elect to enroll in the HA fishery, the common pool, or a sector. The PSC from HA permits would contribute to whichever sub-ACL their permit is enrolled in.

Comment: We reject this since would not protect the handgear fishery for future generations. It also does not control non-handgear vessels from obtaining and using handgear ACL history. The council needs to make sure handgear history remains in the handgear fishery. "Use" needs to be defined as used by handgear fishermen only using "handgear". Any other "use" does not protect this fishery from being lost forever.

**We recommend this option is not recommended.**

### ***Discards***

**Sub-Option D.** Assume all discards from trips fishing within the HA fishery to be *de minimis*, and not account for them under any sub-ACL. This sub-option would require the *de minimis* discards to be explicitly considered within the management uncertainty of the fishery.

Comment: This is a very selective fishery and the few fish that we do not keep represent a truly *de minimis* quantity of fish. If this option is selected the NMFS can inform the council if discards become a deciding factor contributing to rebuilding plans. We suspect this will never happen considering the gear and quantify of discards of this fishery.

**We support Sub-Option D.**

*If you are a holder of a groundfish HA permit and wish to join the NEHFA, please contact the NEHFA at the address above.*

*cc: Council, FH, JEC (3/28)*

**Proactive accountability measures**

**Sub-Option A.** When 100% of the HA sub-ACL is reached for a stock, the HA fishery for that stock would close and all vessels fishing under the HA fishery would be subject to a zero possession limit for that stock for the remainder of the fishing year.

**We support Sub-Option A.**

**Sub-Option C.** When 100% of the HA sub-ACL is reached for a stock, the stock area would close for all HA fishery participants.

Comment: **We very strongly reject this option.** We are able to selectively target the three primary species (cod, haddock or Pollock). We are using the same gear as Recreational fishermen and they are not closed out to all fishing once their quota is reached or exceeded. Any di minimis overages would be subtracted the following year. The overall ACL for the ground fishery would not be jeopardized at all by a di minimis overage of the allocated sub-ACL stocks to the HA fishermen.

**Reactive AM timing**

**Sub-Option B.** Reactive AMs would be triggered if the HA fishery sub-ACL and the total ACL are exceeded.

**We support Sub-Option B.**

**Managing small ACLs**

We propose 72 hrs after a HA trip the fishermen would send an email to the NMFS to report their estimated catch. The email would simply state the following info:

- Name Vessel
- Date of trip
- Owners Name
- Permit #
- lbs Cod landed
- lbs Haddock landed
- lbs Pollock landed

This would be sufficient for the NMFS to easily deduct the catch from a simple spreadsheet to get an idea how the fishery proceeding. NMFS should understand from history of this fishery the catch rates are slow and due to this in season monitoring is very easily done with di minimis NMFS resources. The time required for a fishermen to fill out a VTR is much more than for the NMFS to deduct quantities of 3 species off an excel spreadsheet. The PDT states that "given staff constraints and commitments to data systems that were made to support the catch share management program" as a reason that may prevent adequate monitoring. The NMFS should be committed to doing what is necessary to maintain this fishery as they have done for other substance or small scale fisheries around the country.

Respectfully,  
Marc Stettner /s/

NEHFA MEMBERS: Marc Stettner, Hilary Dombrowski, Paul Hoffman, Christopher DiPilato, Ed Snell, Scott Rice, Roger Bryson, Brian McDevitt, Anthony Gross, Doug Amorello

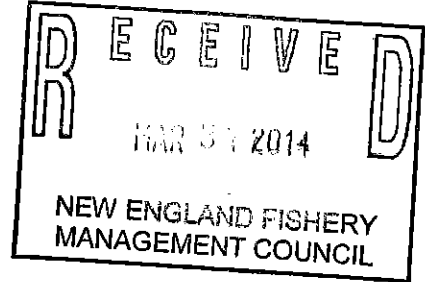


**K & K FISHING CORP.**

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March 30, 2014

Groundfish Advisory Panel  
New England Fisheries Management Council  
50 Water Street,  
Newburyport, MA 01950



Re: Amendment 18, diversity and accumulation

Dear Panel Members,

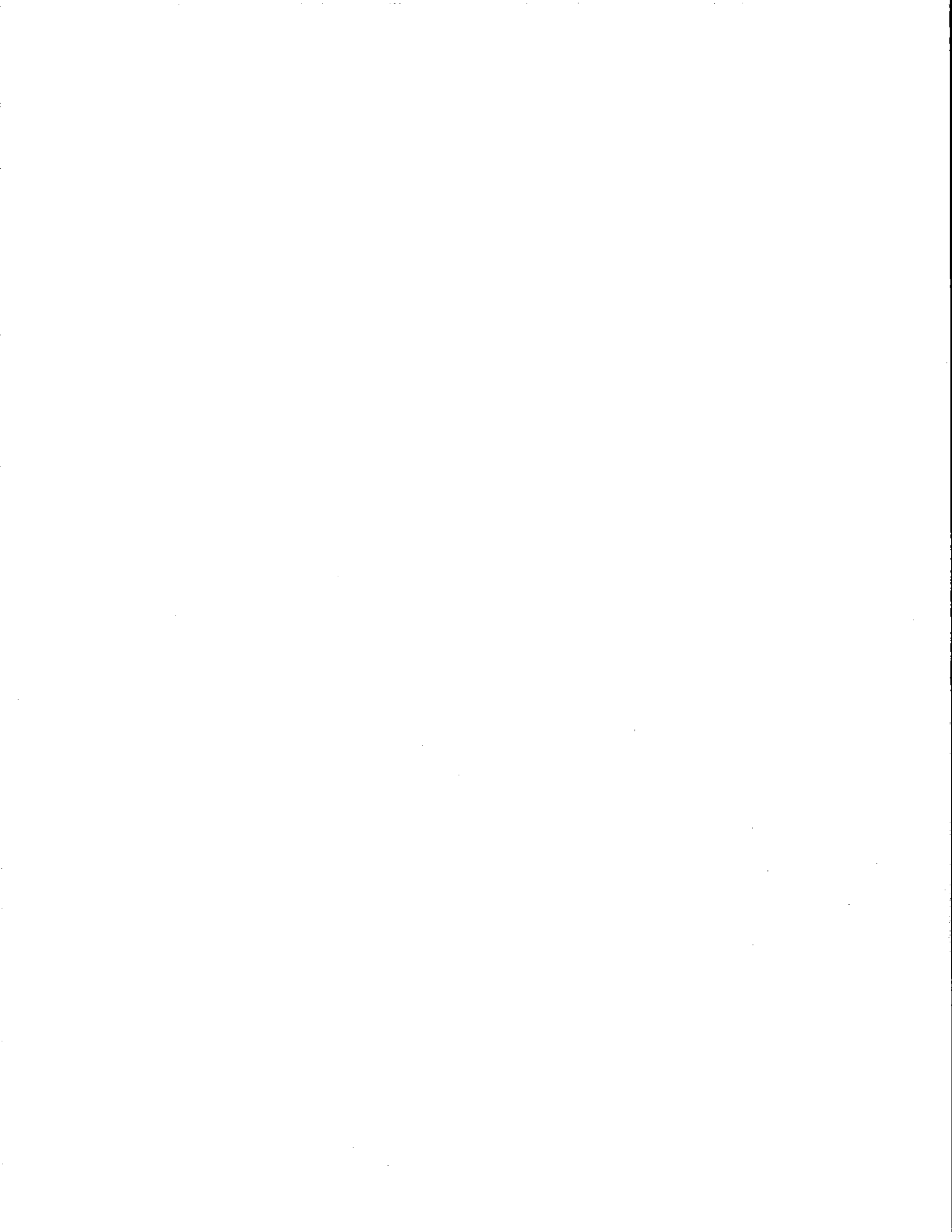
I am writing to urge the NEFMC to act on forced industry consolidation.

Currently permit holders who are in the process of selling their permits are being forced to hold up the sale to see if anyone already in the sector wants to enlarge his operation. Owners with signed purchase and sale contracts, who are not trying to take the vessel out of the sector, are being forced to delay the transaction to allow those already in the sector ROFR. As the prospective buyer would be joining the sector, the only reason for this requirement is to allow accumulation, it has nothing to do with the viability of the sector. Actually it is detrimental to the sector as it keeps out new fishermen while concentrating quota.

Sincerely,

Lawrence P. Kavanagh, Jr.

Cc: Terry Stockwell, Chair, NEFMC  
Cc: John Bullard, Regional Administrator, GARFO





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*

April 1, 2014

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

**RE: Framework Adjustment 51 Proposed Rule (79 Federal Register 14952)**

Dear John:

On March 17, 2014, a Proposed Rule was published that requests comments on Framework Adjustment 51 (FW 51) to the Northeast Multispecies (Groundfish) Fishery Management Plan (79 Federal Register 14952). The Proposed Rule includes the Agency's proposed response to the New England Fishery Management Council's preferred alternatives. The Proposed Rule matches the Council's intent. Here, I further explain the Council's rationale for three measures in which additional information is being requested: the rebuilding plan review analysis, the revised Georges Bank yellowtail flounder discard strata, and zero retention of yellowtail flounder by the scallop fishery.

*Rebuilding Plan Review Analysis*

The rebuilding plan review analysis outlines an approach to track progress toward rebuilding targets for American plaice and Gulf of Maine cod. The Council and the groundfish fishing industry remain concerned about past experiences with rebuilding timelines and developed this approach to offer a more explicit set of steps when reviewing progress toward rebuilding. The analysis would provide the Council with information for decision-making and allow for discussion of extending rebuilding timelines if a period of less than 10 years was originally selected. The Council recommended the rebuilding plan review analysis for these two stocks only at the present, but this tool might be useful in the future for other stocks.

The Proposed Rule requests additional comment on this measure, suggesting that many of these steps are already performed either through the stock assessment or biennial adjustment process. I do not believe there are any examples in recent groundfish stock assessments of an investigation into why rebuilding has not occurred as expected. The standard terms of reference for benchmark assessments do call for a review of "...the performance of historical projections with respect to stock size, recruitment, catch and fishing mortality," but the treatment of this TOR is often cursory and there is no direction to identify why rebuilding did not occur as projected. The assessments do not even compare fishing year catches to Annual Catch Limits (ACLs), the first of the three criteria the Council identified as part of the review process. The biennial review process does not focus on the reasons rebuilding did not occur as projected, and does not revisit reference points. The Council believes that it is important to commit to this type of evaluation in the future.

*Revised Georges Bank Yellowtail Flounder Discard Strata*

In Framework Adjustment 48, the Council recommended to revise the Georges Bank yellowtail flounder discard strata; however, this change was disapproved in the final rule. The groundfish fishing industry, during the development of FW 51, raised concerns with the Council about how groundfish discards are calculated. In particular, the industry expressed concern with how discard rates are applied at the sector level and wanted to use an approach to apply discard rates to individuals within the sector. The industry also continued to be concerned with the status of Georges Bank yellowtail flounder and how catches are estimated.

The Council recommended the revised Georges Bank yellowtail flounder discard strata again in FW 51. At the same time, a sector discard tool was under development at GARFO that sector managers could use to apply discard rates to individuals within a sector. The Council expressed that it preferred the sector discard tool to be used instead of the change in discard strata if the industry determined that the tool would alleviate their concerns.

It is important to note that the proposed revised discard stratification and the sector discard tool are two very different approaches to addressing the concern of sectors that discards may not be correctly estimated if there are spatially different discard rates within a stock area. This is not clearly explained in the description in the Proposed Rule. As shown in FW 51 analyses, there are often different discard rates within the proposed strata, and for some sectors using the different strata in the years analyzed would have led to different discard estimates. With adequate observer coverage, stratification would be expected to lead to more accurate discard estimates. In contrast, the discard tool proposed by the Service would not revise the estimate of discards for any sector; it merely creates a different way to allocate the estimated discards among the vessels within a sector. The discard tool does not provide a more accurate estimate of the total discards if there are spatially different rates within the stock area.

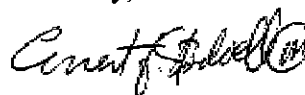
Because the discard tool was not presented to sector operators until late February, the Council has not had a chance to determine if this approach is preferred by sectors. I would note, however, that this is not an "either/or" decision; the discard tool could be used by sectors for any stock or any strata, including the revised strata proposed in FW 51 should sectors decide to do so.

*Zero Retention of Yellowtail Flounder in the Limited Access Scallop Fishery*

The scallop fishing industry raised concerns during the development of FW 51 that some in the scallop fishery were targeting yellowtail flounder (i.e., Southern New England/Mid-Atlantic and Georges Bank stocks). Furthermore, the industry felt that zero retention (no possession) would remove the incentive to target these stocks. With great attention on the status of Georges Bank yellowtail flounder, the Council recommended changing this regulation to encourage the fleet to stay under its allocation and avoid the stock.

Thank you for considering these comments. Please feel free to call me with any concerns.

Sincerely,



E.F. "Terry" Stockwell III  
Chairman

cc: Allison Murphy, GARFO



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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*

April 1, 2014

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

**RE: FY 2014 Sector Operations Plans (79 Federal Register 14639)**

Dear John:

On March 17, 2014, a Proposed Rule was published that requests comments on the 2013 Sector Operations Plans (79 Federal Register 14639). The Proposed Rule includes the Agency's proposed response to sector exemption requests. In general, I am concerned that some of the actions that are under consideration will inhibit the ability of vessels in sectors to mitigate the current economic disaster.

*General Comments on Observer Coverage Issues and Requirements for Industry-Funded Coverage for Several Exemptions*

The Proposed Rule announces the level of at-sea monitoring (ASM) coverage that will be required for FY 2014. The level of coverage for sector fishing trips that would be required is 26 percent of trips (18 percent ASM and 8 percent NEFOP).

A frequent requirement in the Proposed Rule is to require that vessels participating in several new exemptions (including access to portions of year-round closed areas) will be required to have 100 percent observer coverage of all trips, and that this coverage must be funded by the industry. The Council opposes these new requirements. The Council did not choose to require 100 percent ASM coverage as a condition for access to year-round closed areas. Little, if any, justification is provided for this required level of coverage - all the analyses that are provided conclude that 26 percent coverage provides sufficient precision and accuracy. I urge you to revisit this requirement and provide adequate justification for any coverage level above 26 percent.

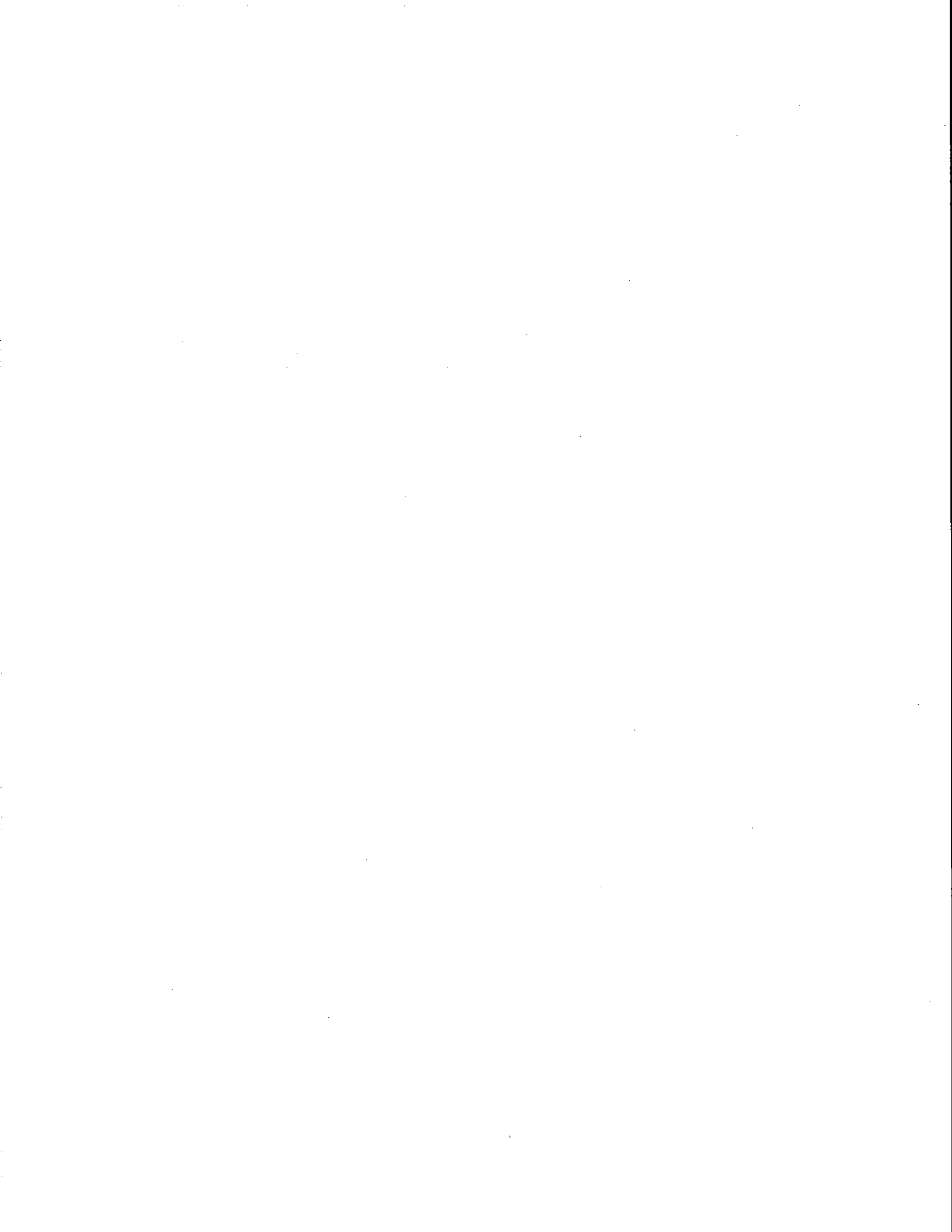
The Proposed Rule also would allow an exemption to target redfish while using 6 -inch mesh. The Council has supported the development of a redfish fishery since 2012 and I urge you to approve this sector exemption.

Thank you for considering these comments. Please feel free to call me with any concerns.

Sincerely,

E.F. "Terry" Stockwell III  
Chairman

cc: Allison Murphy, GARFO



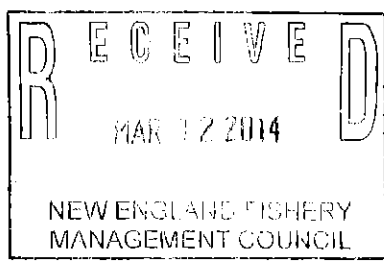
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# Center For Sustainable Fisheries

115 Orchard Street, New Bedford, Massachusetts 02740 | 508-992-1170 | Fax 508-993-8696  
info@centerforsustainablefisheries.org | www.centerforsustainablefisheries.org

A science based non-profit organization devoted to the conservation of our fisheries resources and the economic development of our fishing communities.



### ADMINISTRATION

**Brian J. Rothschild, PhD**  
President and Chief Executive Officer  
**Kate Kramer, Esq., M.M.A.**  
Chief Operating Officer  
**Julie Peterson, Esq.**  
Counsel

March 11, 2014

Terry Stockwell, Chair  
New England Fisheries Management Council  
50 Water Street, Mill 2  
Newburyport, Massachusetts 01950

Dear Terry:

I hope this letter finds you well. I am writing you today about Georges Bank yellowtail flounder (GBYTF) and to request that a proposal for an experimental, cooperative research program be added to the agenda at the April Council Meeting in Mystic, CT.

Based on discussions with our Board of Directors and others, the Center for Sustainable Fisheries (CSF) requests that the NEFMC implement an emergency action to conduct an experimental, cooperative research, GBYTF fishery and use the information from the experimental fishery to increase the precision and remove possible bias from the disputed GBYTF stock assessments.

As you know there is a material controversy regarding the state of the GBYTF population. The controversy seems to boil down to the fact that both the agency and those external to the agency have little confidence in the current stock assessment. The current stock assessment reckons that the biomass is 800 MT. In contrast, several area-swept studies and a tagging study reckon that the population is around 4000 MT. Needless to say it is important to determine which estimate is more nearly correct. If the latter is correct than a considerable proportion of the GBYTF stock will be under harvested and the entire groundfish fishery will be driven, unnecessarily further into the ground. Furthermore if the higher population level is correct, then the by-catch of GBYTF in the scallop fishery will be unnecessarily high.

The agency has responded to this discrepancy by calling for a meeting in April, that will take into account a new empirical approach, and then revise the TAC (upward or downward). We understand that effecting any revisions may take a year after April. We think that there is too much at stake to delay determination of the state of the GBYTF stock.

It is our opinion that the GBYTF stock is under sampled and that the meeting in April will come to this conclusion. In other words the new empirical approach will not yield a conclusion that will enable the fishery to move forward. With the various disputes and conflicting data, good scientific practice and the management scheme dictate that further information collection and analysis on the groundfish stocks needs to be undertaken with considerable urgency.

Further data collection is necessary to develop the allocation of yellowtail in both the groundfish and scallop fishery management plans, to ensure compliance with the MSA's National Standards, and to alleviate an

*cc: Corneil, RN, CBA, JC (3/13)*

emergency situation that has the potential to result in a "similar failure in the future." MSA § 312(a)(2). The Economic Disaster has now risen to a level of an "emergency situation" where "emergency regulations [are] necessary to address the emergency." MSA § 305(c)(1).

For both the groundfish and scallop fisheries current management strategies run the risk of causing two potentially irreversible consequences. First, the groundfish fleet and industry will continue to diminish and disappear. And second, low allocations in the groundfish fishery lead to wasteful increases of yellowtail bycatch in the scallop fishery. Increasing bycatch is severely jeopardizing the future feasibility of the scallop industry's ability to harvest scallops.

We propose that an emergency regulation be passed by the Council to open an experimental fishery to collect information on yellowtail stocks as a cooperative research program. Under our proposal, a reasonable and larger percentage of yellowtail will be harvested by a limited number of boats. Experimental fishing permits ("EFP") would be issued via the experimental permit application process in 50 C.F.R. 600.745. Boats holding an EFP would be allowed to fish in a normal manner under the higher allocation. As a means to provide financial support for an ailing fleet and help to pay for observer coverage, the catch would be sold. EFP holders would agree to more intensified observer coverage, log book coverage and port sampling.

An experimental fishery will provide several advantages, including, but not limited to, providing broad scale data over various seasons and over several weeks, providing financial support for an ailing groundfish fleet, and ensuring National Standard 2's "best scientific information available," (MSA § 301(a)(2)), requirement is satisfied. Additionally, there is the potential that the additional data and assessments will lead to increased allocations for groundfish fishermen, reduce bycatch in the scallop fishery, and alleviate the Economic Disaster in the New England groundfish fishery.

There is little risk with implementing the experimental fishery because the emergency regulation of an experimental fishery would be carefully monitored and remain in effect for no longer than 180 days. MSA § 305(c)(3)(B). After the 180 days, based on additional information collected, an improved analysis of yellowtail can be evaluated. The evaluation will determine whether allocations should remain at their current levels or be increased.

In conclusion, the uncertainty induced by different GBYTF assessments warrants an intensive area-swept resampling of the GBYTF population. The experimental fishery will resolve these differences. The approach that we have offered appears to be feasible. However alternative sampling approaches would certainly be acceptable.

We request that the topic of the yellowtail surveys and our proposed experimental, cooperative research program be added to the agenda for the Council Meeting in Mystic, CT on April 22-24. Thank you for your consideration of our proposal and your anticipated leadership in further contributing to resolving New England's groundfish fishery Economic Disaster.

We look forward to working with you on our proposed experimental, cooperative research program.

Please contact Kate Kramer, the Center for Sustainable Fisheries' Chief Operating Officer, at [kkramer@centerforsustainablefisheries.org](mailto:kkramer@centerforsustainablefisheries.org) or at 508-992-1170, with questions and comments.

Sincerely,

Brian J. Rothschild  
Center for Sustainable Fisheries