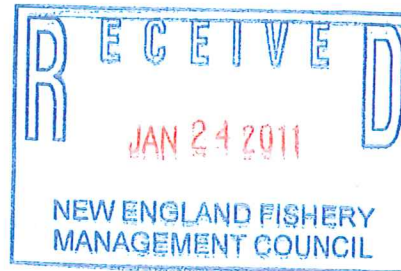




## CITY OF NEW BEDFORD

SCOTT W. LANG, MAYOR

January 18, 2011



#7

Paul J. Howard  
*Executive Director*  
 New England Fishery Management Council  
 50 Water Street, Mill 2  
 Newburyport, Massachusetts 01950

Dear Mr. Howard,

As the Mayor of the nation's number one fishing port, I write to you today to express my continued concern with the management of New England fisheries. We are seeing tremendous job loss in our pillar fishing industries without demonstration of tangible benefits to fish stocks. The management of the skate resource is another clear example of New Bedford and the New England region losing hundreds of jobs, without scientific merit. The Council needs to move beyond the bureaucratic constraints and provide our fishing industry with a regulatory regime that will allow the attainment of optimum yield.

Our specific request is for the Council to recommend an Emergency Action to raise the 2011 skate-wing catch limits to 20,000 pounds. Under this level of effort the targeted skate populations rebuilt, thus we feel that this level of effort does not compromise our conservation goals. An emergency action would resolve the problem in the short term however, it is clear that skate fishery management plan needs to be amended to give the Council the flexibility to adjust limits based on scientific merit. We are asking that the Council initiate the development of Amendment 4 to the Skate FMP so that we can begin to build a plan that is consistent with both our conservation and economic goals.

This urgent request is grounded on the fundamental fact that the skate resource is abundant, but fishing limits are unsustainable. Below I highlight a number of key issues that drive this request and merit thoughtful consideration.

Your December 14<sup>th</sup> e-mail to Council members is troubling, as it does not give a clear view of the status of the skate stocks and it does not provide support for Council decisions. In fact, some Council members may be misled as a result of your e-mail. As the Executive Director of the Council it is critical that you furnish accurate data. In the second paragraph of your email, you

indicate that Council staff working on this issue has insufficient time to estimate and predict the discard rate. So you are advising Council members that the Council staff's failure to determine this rate in a timely manner means they should make decisions that will cost 300 Massachusetts citizens their jobs.

*Surely you do not consider the loss of 300 jobs an acceptable trade off.*

I am reminded of the situation that occurred nearly a year ago, when last February, new data on Pollock, Dogfish and Skate became available. This data showed a higher population of skates than previously believed. Fishermen, elected officials, and industry advocates asked the Council to move quickly and arrange for the Plan Development Team (PDT) to review the data so that higher limits could be established. The council staff, specifically Mr. Andy Applegate, did not initially respond favorably to this request. Those who inquired were told that the PDT members were not able to convene in time to meet a particular deadline, and that Mr. Applegate had international travel scheduled that would preclude his ability to address the matter in a timely manner. When PDT members were contacted independently it was found that they were able to meet within the timeframes, and pressure from industry apparently made the difficulties posed by Mr. Applegate's planned travel less of an issue. Subsequently the PDT was able to meet and the issue was resolved. However the initial response of your staff caused many to wonder if staff had their priorities correctly ordered.

*Clearly the retention of jobs and the economies of our coastal communities should be higher priorities than bureaucratic obstacles and staff travel schedules.*

A 2009 Federal court ruling by Judge Harrington stated;

*"Notwithstanding this limitation, the court also believes that prudent agency administration dictates that Commerce at least seriously consider and analyze the Mixed-Stock Exception, which Commerce admits that it did not do. Its reasons are time constraints and the unlikelihood that the exception would apply even after serious consideration and analysis. Such reasons are without merit. At the least, administrative agencies are to be expected to approach their work carefully and thoroughly. This means taking their time before making decisions affecting society, especially those of great consequence, such as Framework 42" (Harrington 2009; 06-12110-EFH).*

I trust you accept Judge Harrington's determination that using time constraints as a reason not to seriously consider matters is without merit, and that agencies are expected to approach their work carefully, and thoroughly, taking the necessary time before making decisions of great consequence that affect society.

In your email you noted that "the National Marine Fisheries Service ... reported in November that the Council's Emergency Action request to raise the skate possession limit (via a motion made at the September meeting) so that the industry could harvest optimum yield would not be prudent".

Why would it not be prudent to raise possession limits to achieve optimal yield? The current regulations do not constrain catch – raising the possession limits would simply allow fishermen to convert what are currently discards to landings. The overall catch of skate is largely affected by the effort in the monkfish, multispecies, and scallop fisheries. The majority of that catch is discarded. A relatively small segment of the fishery targets large skates (specifically, winter skate). The current skate regulations are not likely modifying the level of skate catch, but rather merely what portion of the catch will be landed. Since groundfish effort has likely decreased significantly since 2009, the overall catch, including discards of skates should decrease correspondingly.

Another concern in your email was that the assertion that there are no conversion factors between the Albatross and Bigelow survey indices. Conversion factors for winter and little skate, among other species, were presented in a peer-reviewed report prepared by the Science Center in 2009. Although the Albatross/Bigelow conversion may be the most extensive change in survey gear, previous changes (doors, nets, vessels) have been addressed using the aggregate coefficients, similar to those in the 2009 report, despite differences in apparent size selectivity.

While it is likely that even better conversion coefficients could be developed by allowing more time for analysis of the calibration experiment data and for subsequent peer review of the results, there is a demonstrated need for immediate action, and the conversion coefficients in the 2009 report are the best available scientific information .

In the final paragraph of your email you observe that the “on-going species identification issues in the catch” have constrained the ability to develop species-specific management measures. Since the implementation of the Skate Fishery Management Plan, it has been required that skate catch be recorded by species. However, in practice the majority of skate catch remains unclassified. The collection of species specific data is both necessary to the improvement of the stock assessment and required by law. This requirement has seemingly been ignored and the Council, along with NMFS has failed to take action in addressing this issue. Moving forward, we can all agree that improved identification of these species is required. Programs such as SMAST’s study fleet have demonstrated that successful identification of skate catch, by species, is possible in the field. But until sufficient data is available for the management of individual species, several sub-group classification strategies have been proposed, based on species distribution and contribution to the fishery (Keiley, 2010).

It is also important to note that the status determinations are made for skates as individual species, not as an aggregate. The status of skate species is based entirely on the NEFSC survey indices. Species identification issues in respect to catch composition do not affect the determination of status for the skate species.

A key characteristic to successful fisheries management is the ability to respond to, and incorporate new information in a timely manner. Waiting until FY2011, 2012 or 2013 to reevaluate the skate plan and associated catch limits is not responsible management. Hundreds of people rely on the skate resource. In particular the directed skate vessels and the processors have been unable to operate under the current trip limit of 500 pounds.

*There is no biological justification to have reduced the trip limits for skates.*

Each day that passes the bureaucratic, non-science based delays increase the propensity for job loss. It is critical that the Council be responsive, innovative and set a pathway forward that balances socio-economics with conservation. Optimal yield is not being achieved in the skate wing fishery, while hundreds of thousands of pounds of skate are wasted – thrown overboard. The goal of effective management should be to reduce waste, and increase the productivity and sustainability of our fishing fleets.

*In the case of skates, current management efforts are – literally -- throwing jobs overboard.*

I urge you to act and set a pathway forward for both raising skate limits and developing Amendment 4, as to allow science to drive the management of our fisheries. Thank you for your consideration.

Sincerely,



Scott W. Lang  
Mayor

**Paul Howard**

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**From:** Paul Howard  
**Sent:** Tuesday, December 14, 2010 2:01 PM  
**To:** Council  
**Cc:** Staff  
**Subject:** Skates  
**Attachments:** 101210 skate fishing limits draw new fire.doc

To: Council Members

There has been a lot of discussion in the media recently about skates. For your information, here is my perspective of where we are with skates:

The Council responded to a skate request from the industry at the September Council meeting. The Skate Plan Development Team (PDT) was subsequently tasked to reexamine discard estimates. The PDT reported in November that at this time data are insufficient to estimate and predict the 2010 skate discard rate, a measure which may have enabled the Council to modify the total allowable landings of skates in the 2010 fishing year.

According to the PDT, although data from observed trips are available to compare discard to landings ratios for groundfish sector vessels, the wide variation in the data precluded a determination of whether total skate discards had declined under groundfish sector management. Previously unavailable discard estimates for 2009 would enable only an 8 metric ton (about 17,000 pounds) increase in total skate landings.

Additionally, the National Marine Fisheries Service also reported in November that the Council's Emergency Action request to raise the skate wing possession limit (motion made at the September meeting) so that industry could harvest optimum yield would not be prudent.

The history of the skate situation began when the skate wing possession limit was reduced from 20,000 pounds to 5,000 pounds on June 16 with the implementation of Amendment 3 to the Skate Plan. Later, the limit was further reduced to 500 pounds because the fishery had landed close to 80 percent of the annual limit and was on a pace to far exceed the allowable quota for the 2010 fishing year. Since that time, landings of skate wings have averaged 27,600 pounds per week and the fishery is expected to reach the landings limit by early March 2011. The fishing year, which began on May 1, 2010, is scheduled to end on April 31, 2011.

Industry testified at the November Council meeting that the skate wing possession limit reduction to 500 pounds has had devastating impacts on fishermen and shore-side processors, threatening market share and the long term ability for the U.S. to market skate wings overseas. As a consequence, the Council initiated Framework Adjustment 1 to re-assess its plan for a 5000 pound trip limit for the 2011 fishing year. This action is based on industry concerns and recommendations to modify the skate wing possession limit to 3100 pounds for 2011 so that the fishery does not close early next fishing year. Approval of the framework is expected at the January 2011 Council meeting and possible implementation by June 2011.

Since the Council meeting, a number of events have occurred that affect the public's perception of skate management, including a paper authored by the SMAST's, Emily Keiley. The premise of her paper is that "the 20,000 pound trip limit be reinstated for the remainder of the 2010 fishing

year. This is taking into account that the target stocks (little and winter skate) are not overfished,” implying that the fishing at a 20,000 pound possession limit is appropriate.

The impression one is left with is that if NMFS ‘released’ the Bigelow survey data , the ABC and TAL would be higher than currently set. The reality is it actually could be higher, but we don’t know yet how much higher because the Bigelow skate indices have not been properly calibrated to the Albatross to date (or vice versa), not applied to estimate the OFL/ABC and not peer reviewed. There exists ambiguity in the current skate calibrations. New calibrations are needed to address length specific characteristics and the higher catch rates observed by NEFSC scientists. The Council’s PDT and SSC will be tasked to examine this ambiguity and incorporate any new data into skate ABC specifications for 2012 and 2013, which are scheduled for final vote in September 2011.

In the meantime, it appears that there may be an emergency requests for skates issued by Congressman Frank. The responsibility to respond to the emergency request rests with NMFS. Lastly, we manage skates as an aggregate fishery mainly because of on-going species identification issues in the catch. To estimate a new OFL/ABC, we need the calibrated data for all seven skate species. And one specie, Rosette , has insufficient data to compute reliable calibration coefficients, although there may be some ways around the problem.

I hope this info will help as you prepare to vote on a new skate trip limit at our January, 2011 Council meeting.

V/r,

Paul



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

**To:** Paul J. Howard, Executive Director  
**From:** Dr. Steve Cadrin, Chairman, Scientific and Statistical Committee  
**Date:** April 28, 2010

**Subject:** **Review of Skate Acceptable Biological Catch (ABC)**

The Scientific and Statistical Committee (SSC) was asked to update the skate complex ABC, using the 2008 NMFS autumn bottom trawl survey for skates and the same basis for determining the ABC which the SSC approved on February 6, 2009.

On February 11, 2009 the SSC recommended:

- *The SSC recommends that Acceptable Biological Catch for the Northeast skate complex is 23,826 mt per year for the 2010 and 2011 fishing years.*
- *The ABC recommendation is derived as the multispecies skate catch associated with the median of the observed series of a catch/biomass exploitation index and the most recent three-year average of the multispecies skate survey index.*

On September 23 2009, the SSC provided revised recommendations:

- *The revised recommendation is that ABC is 30,643 mt per year for the 2010 and 2011 fishing years;*
- *The revised ABC is 74% of the estimated catch in 2007 (landings plus dead discards); Therefore total catch (the sum of landings and dead discards) must be reduced by at least 26%; and*
- *The 2011 ABC recommendation should be reconsidered by the SSC in 2010 based on the Skate Plan Development Team's (PDTs) review of updated survey data and results from the 2008 survey calibration workshop.*

On March 17, 2010 the SSC reviewed several sources of information and associated presentations by the Skate PDT: March 8, 2010 memo from Skate PDT on the 2008 fall survey data and the effect on a revised skate ABC.

The PDT and SSC reviewed several aspects of the fall 2008 survey for the seven skate species in the complex. There was a substantial increase in survey catch of winter skate (and increase from 3.71 kg/tow in 2007 to 9.51 kg/tow in 2008). Geographic distributions of survey catches were similar over time, the increase in survey catches of winter skate occurred in all strata, and there were no survey tows that were statistical outliers. Size distributions sampled in the 2008 survey were generally consistent with those in 2007, but there were more 75-90 cm winter skate than expected, which is similar to size-based survey patterns observed during an increase in biomass in 1980s. The apparent three-fold increase in winter skate biomass is considered to be partly a result of survey measurement error, and partly a result of increased skate biomass. The current stock assessment method for skates is a three-year average of survey biomass indices, which is intended to account for

measurement error in annual biomass indices. The SSC concludes that the most recent three-year average biomass index for the seven skate species should be updated to include data from the 2008 fall survey.

The SSC recommends that the ABC be revised to account for updated survey information. The previously recommended method for deriving an interim ABC is the product of the median observed exploitation index and the most recent three-year average of the multispecies skate survey index. The SSC accepts the updated survey data as the best scientific information available for managing the Northeast skate complex fisheries. Similar to other resources where fisheries are managed based on index-based assessments, survey data should be evaluated during multi-year specifications to detect changes in resource conditions.

Several new challenges concerning skate management are expected to arise in the future. Updating survey indices beyond fall 2008 will require the calibration of the old and new survey systems. Preliminary calibration estimates are available for little skate and winter skate, but not for the other five skate species. Discarding of skates is expected to be a continuing problem that may increase under new management regimes. Stock status, life histories, and geographic ranges vary among skate species: northern species (thorny skate and smooth skate) are overfished; southern species (rosette skate and clearnose skate) are not overfished; target species (winter skate and little skate, as well as barndoor skate) are rebuilding. The target species and northern species are most likely transboundary resources. Future management of the New England skate complex fisheries should include consideration of treating species separately or as geographic groups of species.

**The SSC recommends that:**

- 1. The interim ABC for the Northeast skate complex in 2010 and 2011 is 41,080 mt based on updated survey information and the accepted ABC-setting method.**
- 2. The strategy for managing skate fisheries should be reconsidered.**