

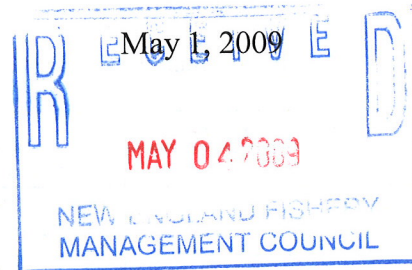
**Amendment 16 Public Comments  
by Proposed Sector Participants**





Georges Bank Cod Fixed Gear Sector, Inc.  
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Captain Paul Howard  
Executive Director  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950



RE: FY2010 Georges Bank Cod Fixed Gear Sector Proposal

Dear Captain Howard,

Please accept this initial proposal for the fishing year (FY) 2010 Georges Bank (GB) Cod Fixed Gear Sector (Fixed Gear Sector), as authorized by Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). Amendment 16 is scheduled to be implemented on May 1, 2010 and with it comes a number of Sector requirements/exemptions not presently afforded to the existing GB Cod Fixed Gear and Hook Sectors. Due to the fact that Amendment 16 has yet to be finalized, the Fixed Gear Sector reserves the right to modify its operations and development to address and/or in response to final approval of Amendment 16. As requested by the National Marine Fisheries Service (NMFS), the Fixed Gear Sector will submit a final draft Operations Plan and Environmental Assessment (EA) no later than September 1, 2009.

The Hook Sector was the premier groundfish Sector in New England, and was implemented in 2004 with approval of Amendment 13. Two years later, a second Sector emerged in the form of the Fixed Gear Sector. Since then, both NMFS and the New England Fishery Management Council (Council) have become intimately familiar with the development, operations, and performance of these Sectors.

Given the increased costs for development and operations of Sectors, and the need to create additional efficiencies within the Sector management regime, the existing Sectors have determined to consolidate for the 2010FY. The intent of the Hook Sector is to withdraw themselves from the Hook Sector and join the Fixed Gear Sector. As such, the Hook Sector does not intend to submit a proposal, Operations Plan, or EA for the 2010FY. Any and all Hook Sector exemptions would apply to those who operate hook gear in the (combined) FY2010 Fixed Gear Sector. The FY2010 Fixed Gear Sector will not alter its administration or management policies. The Operations Plan (and resulting EA) will, however, be updated to reflect the changes and allowances granted by Amendment 16.

#### **Proposed Changes to Sector Operations and Management**

Recognizing that Amendment 16 is still incomplete, the Fixed Gear Sector reserves the right to modify its operations and development to address and/or in response to final approval of Amendment 16.

Table 1 (below) summarizes the FY2009 Operations Plan:

cc: TN (5/16)



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Table 1: Summary of the Georges Bank Cod Fixed Gear Sector Operations Plan (FY 2009).

Sector Parameters	Description
Location	Georges Bank Cod Hook Sector Operating Area
Timeframe	May 1, 2009–April 30, 2010 (but vessels must continue to comply with the Spawning Season Restrictions; see Harvest Rule #10 in Section 3.1.4)
Gear	<ol style="list-style-type: none"> <li>1. Hook and line gear, including jigs, handline, and non-automated demersal longlines;</li> <li>2. Sink gillnets</li> </ol>
Allocated species	Georges Bank cod
Other Landed species/ Bycatch	See Table 4.10 in FY2009 EA
Exemptions requested	<ul style="list-style-type: none"> <li>• No trip limits of Georges Bank cod (Harvest Rule #8)</li> <li>• Exempt from limits on the number of hooks that may be fished (Harvest Rule #9)</li> <li>• Participating Vessels are not required to adhere to the Seasonal Closure on Georges Bank (May 1-May 31), but must use hook gear to target cod or other species managed under the plan (Harvest Rule #10)</li> </ul>
Number of participants	23 vessels, 14 people
Total Allowable Catch (TAC)	408 metric ton (mt)
Expected catch (including allocated and other landed species)	Assumed to be equal to the TAC

The proposed FY2010 Fixed Gear Sector will be formed of vessels that fish primarily on Georges Bank, but also in the Gulf of Maine and Southern New England. Requested exemptions are consistent with existing or proposed sector policies.

- **Initial Approval:** November 2006.
- **Primary hailing ports anticipated:** Aunt Lydia’s Cove, Chatham, MA; Stage Harbor, Chatham, MA; Saquatucket Harbor, Harwich, MA; Allen’s Harbor, Harwich, MA; Wychmere Harbor, Harwich, MA. (Additional hailing ports may be specified in the Operations Plan.)
- **Primary unloading ports anticipated:** Aunt Lydia’s Cove, Chatham, MA; Stage Harbor, Chatham, MA; Saquatucket Harbor, Harwich, MA; Allen’s Harbor, Harwich, MA; Wychmere Harbor, Harwich, MA. (Additional unloading ports may be specified in the Operations Plan.)
- **Primary gear:** Sink gillnet, bottom longline.
- **Potential secondary gear:** Rod and reel, handlines.
- **Primary fishing areas:** Georges Bank, Gulf of Maine.
- **Potential other fishing areas:** Southern New England.





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- **Estimated sector ACE share:** 0-20% (but may exceed 20% subject to elimination of the 20% cap).
- **Stocks:** All regulated groundfish stocks as proposed by Amendment 16.
- **Estimated Number of Participating Permits (Active):** ~40 (~20).

Table 2 (below) summarizes the proposed changes to be implemented in the 2010 FY:

Table 2: Proposed Summary of the Georges Bank Cod Fixed Gear Sector Operations Plan (FY 2010).

Proposed Sector Parameters	Description
Location	All three regulated mesh areas: <ul style="list-style-type: none"> <li>• Gulf of Maine (GOM)</li> <li>• Georges Bank (GB)</li> <li>• Southern New England (SNE)</li> </ul>
Timeframe	May 1, 2010–April 30, 2010 (but vessels must continue to comply with the Spawning Season Restrictions)
Gear	<ol style="list-style-type: none"> <li>1. Hook and line gear, including jigs, handline, and non-automated demersal longlines;</li> <li>2. Sink gillnets</li> </ol>
Allocated Stocks (15)  *allocations of these stocks will not be made, however trip limits may remain in place.	Cod (2) : GOM and GB Haddock (2) : GOM and GB Yellowtail Flounder (3) : GB, SNE/Mid-Atlantic, and Cape Cod/GOM Plaice (1) Witch Flounder (1) Winter Flounder (3): GB, GOM, SNE Redfish (1) White Hake (1) Pollock (1) *Windowpane Flounder (2): North and South *Ocean Pout (1) *Halibut (1)
Other Landed Species/ Bycatch	Primary (frequent): Skates, Monkfish, Spiny Dogfish Sharks; Secondary (infrequent): Bluefish, Lobster, Cusk, Mackerel, Cunner, Silver Hake, Tilefish, Shad, King Whiting, John Dory, Barndoor Skate, Summer Flounder, Sea Raven, Sculpin, Bluefin Tuna, Porbeagle Shark, Striped Bass, Sea Scallops; Protected Species (infrequent, and gillnet interactions only): Grey Seal, Harbor Porpoise, Greater Shearwater, Herring Gull, Northern Fulmar, Shearwater



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Table 2: Proposed Summary of the Georges Bank Cod Fixed Gear Sector Operations Plan (FY 2010).

Proposed Sector Parameters	Description
Exemptions To Be Requested (Analysis Necessary)	<ul style="list-style-type: none"> <li>• All universal exemptions</li> <li>• Trip limits any stock that the Sector receives an allocation;</li> <li>• Limits on the number of hooks that may be fished;</li> <li>• All non-spawning closures;</li> <li>• DAS and DAS-related regulations;</li> <li>• Gillnet mortality blocks;</li> <li>• Annual gillnet fishing category declaration;</li> <li>• 72 hour observer call-in requirement for the Eastern US/Canada Area</li> </ul>
Number of Participants	~ 40 vessels (50 permits) <ul style="list-style-type: none"> <li>• ~ 23 vessels using hook gear only</li> <li>• ~ 5 vessels using sink gillnet gear only</li> <li>• ~ 10 vessels using both hook and gillnet gear</li> </ul>
Total Allowable Catches (TACs)	TBD
Expected Catch (including allocated and other landed species)	Assumed to be equal to the TAC

A copy of the FY2009 Fixed Gear Sector Operations Plan can be found at the conclusion of this proposal. The FY2010 Operations Plan will build off the attached document and will reflect changes and allowances granted by Amendment 16 including but not limited to transfer of Annual Catch Entitlement (ACE), development of a robust and transparent third-party monitoring program (incorporating the work accomplished by the Fixed Gear Sector in 2009), a complete list of any and all Sector members and permits, and any other appropriate information as required or requested by NMFS.

If you have any questions or concerns, please don't hesitate to contact me. I look forward to continuing to collaborate with you, your staff, and NMFS to ensure that the Fixed Gear Sector meets all requirements for implementation in FY2010 as it has done since FY2006.

Sincerely,

Eric Brazer, Jr.  
 Manager, GB Cod Fixed Gear Sector





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May 1, 2009

RE: Port Clyde Community Groundfish Sector (PCS)

Dear Captain Howard:

Please find enclosed the Port Clyde Community Groundfish Sector's renewed proposal for a sector allocation and request for authorization to begin operating on May 1, 2010. This proposal was previously submitted on May 1, 2008 and is currently reflected in Amendment 16.

The PCS is resubmitting this proposal in order to ensure compliance with 50 C.F.R. 648.87 and, because approval of this sector is so critical to the survival of the fishermen participating in its development, to emphasize our request that if for any reason Amendment 16 is delayed that a separate framework action be initiated to authorize the PCS. Please note that we have included two versions of the proposal, including one that is a "redlined" version of the May 1, 2008 submission. We have provided this in order to clearly show that while we have made technical and clarifying changes that provide updated information on the sector or correct errors in the prior submission, these changes have not significantly or substantively changed the original proposal as reflected in Amendment 16. Our hope is that this will assist the Council and staff in its consideration of our proposal.

If you have any questions please contact me or one of the other members of our team noted in the enclosed proposal.

Sincerely,

/s/ Glen Libby

Glen Libby  
Midcoast Fishermen's Association

Cc John Pappalardo  
Pat Kurkul  
Tom Nies  
Mark Grant  
Alison Guinan

ATTN(5/5)

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May 1, 2008 2009

RE: Port Clyde Community Groundfish Sector (PCS)

Dear Captain Howard:

Please accept the following as the application for This is the Port Clyde Community Groundfish Sector's (PCS) application for authorization under Amendment 16, or if necessary a separate framework action, to operate in fishing year 2010. The intent of this proposal is to reflect the most recent policy modifications being considered by the Council. However, many Amendment 16 policy decisions essential to sector operations have not yet been finalized. Therefore, the Sector reserves its right to modify its structure and operations to address any future changes resulting from the Amendment 16.

The Sector will submit a comprehensive and detailed Operations Plan and Environmental Assessment to the Council and NMFS ~~once Amendment 16 has been finalized by September 1, 2009.~~

### **Summary**

~~The Port Clyde Community Groundfish Sector (pC Sector) has submitted a proposal and a roster for implementation in 2009. While they would prefer to begin operations in 2009, they recognize the associated difficulties and respect the Council's recent vote to delay implementation until May 2010. The PCS submitted an updated roster to NMFS on April 17, 2009 in order to receive the preliminary history and allocation for the PCS.~~ The Port Clyde Sector currently consists of 352 limited access multispecies permits and 26 permit holders all of whom fish in the Gulf of Maine. The actual number of members and their primary fishing area may change by the final deadline for withdrawal and depending on whether additional members are allowed to join the Port Clyde Sector.

### **Administration**

~~At present, Cindy Smith at the Gulf of Maine Research Institute (GMRI) is providing technical assistance to the Port Clyde Sector and is the contact that NMFS is using for catch history purposes and as sector policies are developed. She is not the Sector Manager. Glen Libby (Chairman, Midcoast Fishermen's Association), Jennifer Litteral (Island Institute), and Roger Fleming, Esq. (Earthjustice), are providing technical assistance to the PCS and will coordinate submission of all sector documents and serve as the primary contacts for the PCS. Cindy Smith of the Gulf of Maine Research Institute is also assisting in the sector's development.~~ The sector



will be administered by a Board of Directors, whose direction will be guided by the votes of its membership. The Board of Directors will develop the job description and hire a Sector Manager before the Sector begins operations.

### **Allocation Among Members**

Sector members will be allocated a portion of the Total Allowable Catch (TAC) for each stock allocated to the Sector as a whole. A small percentage of the sector's allocation for each stock will be set aside as a "reserve". It will require a positive vote of a *supermajority* of the membership to release that reserve. ~~As of May 1, 2008~~ Members of the Port Clyde sector are intending to allocate to each permit a percentage of the sector's total allocation based on the portion they contributed to the sector. This may change at a later date, depending on final policies as determined in Amendment 16. The allocation of ACE among sector members will be fully explained in the final Operations Plan and Agreement.

### **Sector Manager**

The Sector Manager, once hired, will be the primary point of contact between the Agency and the sector. At a minimum, the sector manager will monitor each permit's catch relative to its allocation. The sector manager will report regularly weekly to NMFS (or at minimum whatever interval is required by regulation, ~~and possibly more frequently~~) on the sector's catch relative to its allocation. The sector manager will use all data sources available, ~~possibly~~ including but not limited to observer data, dealer data, Vessel Trip Report (VTR) data, Vessel Monitoring System (VMS) data, and the data from a third party dockside monitoring company or service that will be developed, according to NMFS guidelines.

The Sector Manager will submit for review, and edit as required, the critical sector documents as required in Amendment 16, potentially including the Operations Agreement and Environmental Assessment on an annual basis.

### **Description of Vessels and Gear in the Port Clyde Sector**

Of the ~~32~~ 35 permits who ~~signed into~~ are currently listed on the Port Clyde Sector roster by as of ~~March 1, 2008~~ May 1, 2009, six less than 10 are on skiffs and more than 26 are on active vessels. Roughly half of the active vessels are draggers and half are gillnetters. ~~Nearly a~~ All the vessels are less than ~~54~~ 60 feet in length, and have less than 600 horsepower. If additional members are ~~allowed to join the PCS~~, they may have different vessel characteristics and gear. The PCS is not limited to vessels under ~~55~~ 60 feet and members are allowed to use any gear that complies with federal regulations. Some of the draggers in the Port Clyde sector are experimenting with lighter gear and improving cod end selectivity through ongoing research with GMRI, Island Institute and TNC as a means to reduce bycatch, discards and decrease their impact on the ocean bottom.

### **Participation in Other Fisheries**

~~Most of the m~~Members of the PCS participate in various other federal and (ME) state water fisheries including but not limited to shrimp, lobster, herring, and scallop. ~~They currently are not~~

active in other federal fisheries, although aAs mentioned below monkfish is also an important source of revenues.

## **Ports**

~~Fourteen of the vessels in the PCS fish from Port Clyde, seven fish from the Cape Porpoise / Saco area, and seven fish from Cundy's Harbor (Harpwell) or Portland and one each from Monhegan, Boothbay Harbor and Phippsburg. They all sell their groundfish through the Portland Fish Exchange in Portland Maine, though it may travel there in the fish hold of the vessel that caught it or via truck. Sector members are not limited to only selling their fish at the Portland auction. If additional people are allowed to join the sector then they may have members landing and/or selling their fish in other ports.~~

All vessels hail from and land in Maine. Approximately one-half of the vessels fish from and land in Port Clyde. The other vessels hail from Sebasco Harbor, Harpswell, Rockport, Rockland, Cundys Harbor, Friendship, Saco, Monhegan, and Boothbay Harbor. These vessels land in either Port Clyde, Portland or Kennebunkport. The vessels may sell their groundfish through the Portland Fish Exchange or through the Midcoast Fishermen's Cooperative in Port Clyde. Sector members are not limited to sell their fish at these two locations. If additional people join the sector the PCS may have members landing and/or selling their fish in other ports.

## **Primary Fishing Area**

The primary fishing area for the PCS is the Gulf of Maine.

## **Secondary Fishing Area**

~~The PCS does not intend to reserves the right to fish in any portion of Georges Bank or Southern New England, though it reserves the right to do so in the future, subject to gaining the proper approvals, depending on sector member preference and new management information.~~

## **Sector Quota Share for Each Allocated Stock**

~~The anticipated quota share of each stock allocated to the PCS cannot be estimated at this time due to lack of information until it is received from the Agency. However, with the current membership, one could guess it is anticipated that this group of small-vessel, nearshore fishermen will have catch history that is significantly less than 20% of the any particular multispecies stock. However, it is conceivable that if new members join the PC sector this guess may be inaccurate.~~

## **Sector Requests**

The PCS requests an allocation of the regulated groundfish species as determined by the final allocation alternative that is described in Amendment 16. They acknowledge that certain multispecies species will not be allocated to their sector and they understand that will likely they

may be constrained by-existing the regulations for Atlantic halibut, windowpane flounder, and ocean pout, or other species.

### **Monkfish**

Recognizing that monkfish are not regulated under the multispecies plan, this paragraph is included as a reminder of the overall concern. Sector members are very concerned that they cannot get an allocation of monkfish. Monkfish is a critical revenue producer for many multispecies vessels, and the fishermen of the PCS hope 1) that the TTACs for monkfish will be increased based on the findings that they are no longer overfished, and 2) that whomever is in the sector with the appropriate monkfish permit category will be allocated multispecies DAS *solely* for the purpose of satisfying monkfish plan requirements and that they be allowed to continue to harvest monkfish according to the current monkfish plan.

### **Universal Exemptions**

The PCS requests that they be exempted from the multispecies regulations that are designated as universal exemptions in Am 16, including but not limited to

1. DAS
2. Current differential DAS counting areas
3. Any new or expanded differential DAS counting areas
4. Trip and on-board possession limits
5. Any new seasonal or year round mortality closures
5. ~~The seasonal closure on GB (May), and~~
6. ~~The limit on the 20% cap on sector shares~~

### **Additional Exemptions**

In addition, the PCS may request exemption from the following multispecies regulations

1. Rolling closures
2. The 20 day spawning block requirement
3. Gillnet block requirements
4. ~~Any new seasonal closures~~
5. ~~Limit on number of gillnets~~

### **Transfer of Annual Catch Entitlement (ACE)**

The PCS requests that PCS members be allowed to transfer ACE among themselves according to the terms of their final Operations Plan and that intra-sector transfers do not require notification of NMFS. Furthermore, the PCS requests that they, as a sector, be allowed to buy, sell or trade ACE from other sectors in exchange for keeping NMFS fully informed of such actions.

### **Allocation of Stocks to Sectors**

The PCS ~~would prefer if requests that allocations~~ to sectors be conducted in the most fair and equitable manner possible. ~~They believe that the allocation of ACE to sectors should be based on catch history from 1996–2006, once any necessary appeals have been addressed.~~

### **Sector Operations**

The PCS will operate under a Hard TAC for all species for which they receive an allocation. If the allocation for any stock is achieved then all sector members will cease fishing in that stock area for the remainder of the fishing year, unless or until the sector acquires additional ACE of that stock from another sector.

If a qualified permit holder joins the sector he is committing to fishing under the terms of the PCS for the entire fishing year. As a sector member he shall have a responsibility to participate in sector decision-making and to abide by all sector and federal fishing rules.

The Sector's Final Operating Plan will be developed in detail by the membership, and will be submitted to the Agency for review, approval and rulemaking.

### **Monitoring and Retention**

The PCS will comply with all monitoring and retention requirements as determined by Amendment 16, and is expected to communicate with their sector manager on a daily basis when they are fishing. The Sector Manager will track the catch, discards and landings for every sector trip relative to the sector's allocation and will report to NMFS ~~as required~~ weekly.

The following is a process that is currently under consideration by the sector members but they reserve the right to develop an alternative approach, which will be described in detail in their final Operations Plan. As a means to prevent exceeding their sector's allocation, the PCS anticipates setting aside a percentage of the sector's allocation of each stock as a reserve, creating an artificially low TAC. As the total sector catch approaches the lower TAC, the sector membership will be required to vote on whether to continue to fish on the remaining reserve and/or direct the sector manager to acquire additional ACE. Regardless of the lower TAC and the percentage set aside as a reserve, the Sector Manager will notify NMFS and increase the reporting frequency when the sector has caught 90% of their allocation of any stock.

### **Infractions and Joint and Several Liabilities**

The sector membership will develop a detailed infractions investigation process and penalty schedule that will be described in their final Operations Plan.

~~Sector members are very concerned with the existing requirement for joint and several liabilities as required in section 648.87(-). They strongly urge the Council and the Service to allow sectors to develop and describe their enforcement measures with appropriate guidance from the Council's Enforcement Committee as an alternative to the existing clause.~~

### **Sector Benefits**



### *End Overfishing*

Implementation of a PCS will contribute to ending overfishing of multispecies stocks in the Gulf of Maine by allocating pounds of each stock and implementing a Hard TAC backstop. Members will be required to stop fishing in the stock area of any species for which the allocation has been met until the sector acquires additional quota. The PCS recognizes that this could easily mean that the entire Gulf of Maine area could be closed to sector vessels, ~~depending on which species has lowest allocation to the sector~~ in order to prevent overfishing.

Reauthorization of the Magnuson Stevens Act (MSA) requires catches of all federally managed species to be constrained to below Annual Catch Limits (ACLs) starting in 2010. It is expected that whatever management regime NMFS implements under this reauthorization will steer all Federal fishery management plans to incorporate TAC management in some form. The Sector's voluntary acceptance of Hard TACs is consistent with this future direction of fishery management and should assist fishery managers in moving toward the goal of constraining catches to ACLs.

### *Minimize Bycatch*

The PCS will reduce bycatch by allocating fish to the sector for the year for which they will develop their own fishing plan (pending NMFS approval). Allocation of fish with a Hard TAC as a backstop will allow sector members more time to fish because they will not be subject to DAS and trip limits, so they can fish more selectively. Additionally, sector management because it is a Hard TAC system requires the development a more real time monitoring system to track catch, so the sector will know right away if they need to stay away from a particular species. Under DAS the fleet is forced to fish on whatever stocks they find in the shortest time possible, be it high or low quality, due to time constraints under the DAS clock. Freedom from DAS will result in fishermen being able to fish again, allowing more selective fishing practices that will have a positive impact on the resource.

The daily trip limits that are designed to protect certain species in the Gulf of Maine often result in regulatory discards (bycatch) of some species, when individual vessels exceed the daily catch limit. Sector vessels will be able to retain 100% of their catch of legal-sized regulated multispecies thereby dramatically decreasing the volume of discards. In addition the PCS will land all legal sized regulated groundfish species (with the exception of limits to halibut, ocean pout, windowpane flounder and Atlantic wolffish) to be monitored and counted by the dockside monitor.

The increased monitoring and reporting, coupled with an allocation that will not be impacted by those outside the sector, and their accountability to their fellow members will promote stewardship and force fishermen to fish in a very responsible and conservation minded way. Currently, members of the PCS do most of their fishing from April until November when the weather allows for safe fishing practices. With the new Sector in place, it is expected that the fishermen from this area may choose a certain time to target each species based on their professional knowledge of seasonal abundance that will maximize their businesses' profitability.

### *Maximize Economic Benefit*

The PCS will generate economic stability and increased efficiency. Currently, PCS members predominantly fish from April to November. During this long season, there are typically peak periods during which catch rates exceed the daily limits. Under the current management plan (last revised by framework 42), the excess fish is discarded. Under the proposed Sector, each boat will know how much fish they can land in a year. Each fisherman can make his own decisions about how to catch that amount of fish. It is expected that many PCS members will opt to target fish during short discreet seasons when catch per unit effort is maximized. Some vessel owners may opt to harvest cooperatively with other vessels in order to further minimize overhead. In short, the PCS will facilitate an efficient harvest of the resource that will maximize profitability and minimize collateral environmental impacts.

#### *Tailor Regulations to Local Social Needs*

The PCS will tailor their Operations Plan to meet their local needs. Local fishermen are most knowledgeable about how to work together and develop a Final Operations Plan that will meet their goals and objectives. Around the world, there is an increasing amount of attention being placed on the merits of community-based fisheries management due to the social, economic and environmental benefits that are being generated. The PCS is a group of fishermen that have worked together on the water for years, and they share a common vision for the future of their fleet. By securing a Sector allocation (quota) from NMFS, the PCS expects to create a more local management authority with the right to management is a long-term investment in building a connection between our ocean resources and the local individuals that harvest them. If that connection is carefully crafted, it will generate tangible local social, economic and environmental benefits.

#### *Conserve Fish Stocks*

For the fishery as a whole, sectors are expected to conserve stocks because it is expected that they will require a Hard TAC backstop. The critical component of this accountability measure will be the new real-time monitoring system that sector vessels will use, thus enabling better data for stock assessments and a quick correction if the objectives of the rebuilding plan are not being met. Sectors members, because they will have an allocation of fish, will have a direct stake in and control over the conservation of the resource. Furthermore if sectors are allowed to carry some portion of their allocation into the next fishing year, members will have a much greater opportunity and incentive to be better stewards of the resource.

#### *Conserve Habitat*

Implementation of the PCS may reduce habitat impacts. Because Sector members will operate under a specific allocation and will be able to be more selective and efficient in where, when, how and how much they fish, they expect to increase their catch rates (Catch per unit effort or CPUE). Increased CPUE, combined with a hard TAC backstop could result in less overall fishing time, and therefore less impact on habitat. As mentioned above, members of the PCS are already testing lighter gear on several draggers and are already working on improving fish habitat.

#### *Decrease Interactions on Protected Species*

The PCS may have less impact on marine mammals, sea turtles and other protected species because sector members will be operating more efficiently. It is expected that fishing as part of a

sector will lead to reduced interactions with protected species and achieve a higher level of protected species conservation than the current management system. For example, by being able to fish more efficiently (but not constrained by DAS), gill net vessels may have less gear in the water, or it may be in the water for a shorter period of time.

### **Amendment versus Operations Plan**

It is expected that Amendment 16 will describe the policies (regulations) to be followed by all multispecies sectors, including such requirements as accepting a Hard TAC on almost all groundfish species, and not exceeding their allocation without substantial penalty. However, sector management has significant benefits if the sectors can have the flexibility to develop their detailed plans for themselves, with appropriate oversight from the Agency and as provided by the federal rule making process. With that in mind, the members of the PCS urge the Council to carefully consider the overarching sector policies while including the necessary flexibility.

### **Proposed to be described in Amendment 16 as rules for all multispecies sectors**

- The allocation formula for allocating pounds of each regulated multispecies stock to sectors (but specifically not for halibut, windowpane flounder and ocean pout)
- A Hard TAC backstop on all regulated multispecies stocks allocated to sectors
- The requirement to have a Sector Manager
- A sector may be allocated more than 20% of the total allocation of any stock
- Any portion of the ACE of any stock shall be transferable between sectors
- Exemptions from specific multispecies regulations applicable to all sectors (universal)
- Specific multispecies regulations for which exemptions *may* be considered and granted
- Guidelines for sector documents that will be required annually
- Requirement for monitoring and reporting beyond what has been done before Am 16
- Requirement for description of compliance (infractions and enforcement) procedures
- Sectors may carry forward a portion of their allocation to the next fishing year
- Sectors will have up to 45 days after the end of a fishing year to balance their catch with their allocation

### **To be described in the Final Operations Plan**

- How the ACE allocated to the sector will be allocated to the individual sector members
- A complete description of the sector by number, size and gear of member vessels
- A complete description of the sector's monitoring and reporting plan
- A complete description of the sector's process to ensure compliance including penalty schedule
- Specific multispecies regulations for which the sector requests exemption

If you have any questions or concerns about the contents of this letter, please feel free to contact ~~me~~ one of the individuals below.

Sincerely,

/s/ Glen Libby  
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May 1, 2009

RE: Port Clyde Community Groundfish Sector (PCS)

Dear Captain Howard:

Please accept the following as the application for the Port Clyde Community Groundfish Sector (PCS) for authorization under Amendment 16, or if necessary a separate framework action, to operate in fishing year 2010. The intent of this proposal is to reflect the most recent policy modifications being considered by the Council. However, many Amendment 16 policy decisions essential to sector operations have not yet been finalized. Therefore, the Sector reserves its right to modify its structure and operations to address any future changes resulting from the Amendment 16.

The Sector will submit a comprehensive and detailed Operations Plan and Environmental Assessment to the Council and NMFS by September 1, 2009.

### **Summary**

The PCS submitted an updated roster to NMFS on April 17, 2009 in order to receive the preliminary history and allocation for the PCS. The Port Clyde Sector currently consists of 352 limited access multispecies permits and 26 permit holders all of whom fish in the Gulf of Maine. The actual number of members may change by the final deadline for withdrawal and depending on whether additional members are allowed to join the Port Clyde Sector.

### **Administration**

Glen Libby (Chairman, Midcoast Fishermen's Association), Jennifer Litteral (Island Institute), and Roger Fleming, Esq. (Earthjustice), are providing technical assistance to the PCS and will coordinate submission of all sector documents and serve as the primary contacts for the PCS. Cindy Smith of the Gulf of Maine Research Institute is also assisting in the sector's development. The sector will be administered by a Board of Directors, whose direction will be

guided by the votes of its membership. The Board of Directors will develop the job description and hire a Sector Manager before the Sector begins operations.

### **Allocation Among Members**

Sector members will be allocated a portion of the Total Allowable Catch (TAC) for each stock allocated to the Sector as a whole. A small percentage of the sector's allocation for each stock will be set aside as a "reserve". It will require a positive vote of a *supermajority* of the membership to release that reserve. Members of the Port Clyde sector are intending to allocate to each permit a percentage of the sector's total allocation based on the portion they contributed to the sector. This may change at a later date, depending on final policies as determined in Amendment 16. The allocation of ACE among sector members will be fully explained in the final Operations Plan and Agreement.

### **Sector Manager**

The Sector Manager, once hired, will be the primary point of contact between the Agency and the sector. At a minimum, the sector manager will monitor each permit's catch relative to its allocation. The sector manager will report weekly to NMFS (or at minimum whatever interval is required by regulation) on the sector's catch relative to its allocation. The sector manager will use all data sources available, including but not limited to observer data, dealer data, Vessel Trip Report (VTR) data, Vessel Monitoring System (VMS) data, and the data from a third party dockside monitoring company or service that will be developed, according to NMFS guidelines.

The Sector Manager will submit for review, and edit as required, the critical sector documents as required in Amendment 16, potentially including the Operations Agreement and Environmental Assessment on an annual basis.

### **Description of Vessels and Gear in the Port Clyde Sector**

Of the 35 permits who are currently listed on the Port Clyde Sector roster as of May 1, 2009, less than 10 are on skiffs and more than 26 are on active vessels. Roughly half of the active vessels are draggers and half are gillnetters. All the vessels are less than 60 feet in length, and have less than 600 horsepower. If additional members ~~to~~ join the PCS, they may have different vessel characteristics and gear. The PCS is not limited to vessels under 60 feet and members are allowed to use any gear that complies with federal regulations. Some of the draggers in the Port Clyde sector are experimenting with lighter gear and improving cod end selectivity through ongoing research with GMRI, Island Institute and TNC as a means to reduce bycatch, discards and decrease their impact on the ocean bottom.

### **Participation in Other Fisheries**

Members of the PCS participate in other federal and (ME) state water fisheries including but not limited to shrimp, lobster, herring, and scallop. As mentioned below monkfish is also an important source of revenues.

## **Ports**

All vessels hail from and land in Maine. Approximately one-half of the vessels fish from and land in Port Clyde. The other vessels hail from Sebasco Harbor, Harpswell, Rockport, Rockland, Cundys Harbor, Friendship, Saco, Monhegan, and Boothbay Harbor. These vessels land in either Port Clyde, Portland or Kennebunkport. The vessels may sell their groundfish through the Portland Fish Exchange or through the Midcoast Fishermen's Cooperative in Port Clyde. Sector members are not limited to sell their fish at these two locations. If additional people join the sector the PCS may have members landing and/or selling their fish in other ports.

## **Primary Fishing Area**

The primary fishing area for the PCS is the Gulf of Maine.

## **Secondary Fishing Area**

The PCS does not intend to fish in any portion of Georges Bank or Southern New England, though it reserves the right to do so in the future, subject to gaining the proper approvals, depending on sector member preference and new management information.

## **Sector Quota Share for Each Allocated Stock**

The anticipated quota share of each stock allocated to the PCS cannot be estimated until it is received from the Agency. However, with the current membership it is anticipated that this group of small-vessel, nearshore fishermen will have catch history that is significantly less than 20% of the any particular multispecies stock.

## **Sector Requests**

The PCS requests an allocation of the regulated groundfish species as determined by the final allocation alternative that is described in Amendment 16. They acknowledge that certain multispecies species will not be allocated to their sector and they understand that they may be constrained by the regulations for Atlantic halibut, windowpane flounder, ocean pout, or other species.

## **Monkfish**

Recognizing that monkfish are not regulated under the multispecies plan, this paragraph is included as a reminder of the overall concern. Sector members are very concerned that they cannot get an allocation of monkfish. Monkfish is a critical revenue producer for many multispecies vessels, and the fishermen of the PCS hope 1) that the TACs for monkfish will be increased based on the findings that they are no longer overfished, and 2) that whomever is in the sector with the appropriate monkfish permit category will be allocated multispecies DAS *solely* for the purpose of satisfying monkfish plan requirements and that they be allowed to continue to harvest monkfish according to the current monkfish plan.

## **Universal Exemptions**

The PCS requests that they be exempted from the multispecies regulations that are designated as universal exemptions in Am 16, including but not limited to

1. DAS
2. Current differential DAS counting areas
3. Any new or expanded differential DAS counting areas
4. Trip and on-board possession limits
5. Any new seasonal or year round mortality closures

## **Additional Exemptions**

In addition, the PCS may request exemption from the following multispecies regulations

1. Rolling closures
2. The 20 day spawning block requirement
3. Gillnet block requirements

## **Transfer of Annual Catch Entitlement (ACE)**

The PCS requests that PCS members be allowed to transfer ACE among themselves according to the terms of their final Operations Plan and that intra-sector transfers do not require notification of NMFS. Furthermore, the PCS requests that they, as a sector, be allowed to buy, sell or trade ACE from other sectors in exchange for keeping NMFS fully informed of such actions.

## **Allocation of Stocks to Sectors**

The PCS requests that allocations to sectors be conducted in the most fair and equitable manner possible.

## **Sector Operations**

The PCS will operate under a Hard TAC for all species for which they receive an allocation. If the allocation for any stock is achieved then all sector members will cease fishing in that stock area for the remainder of the fishing year, unless or until the sector acquires additional ACE of that stock from another sector.

If a qualified permit holder joins the sector he is committing to fishing under the terms of the PCS for the entire fishing year. As a sector member he shall have a responsibility to participate in sector decision-making and to abide by all sector and federal fishing rules.

The Sector's Final Operating Plan will be developed in detail by the membership, and will be submitted to the Agency for review, approval and rulemaking.



## **Monitoring and Retention**

The PCS will comply with all monitoring and retention requirements as determined by Amendment 16, and is expected to communicate with their sector manager on a daily basis when they are fishing. The Sector Manager will track the catch, discards and landings for every sector trip relative to the sector's allocation and will report to NMFS ~~as required~~ weekly.

The following is a process that is currently under consideration by the sector members but they reserve the right to develop an alternative approach, which will be described in detail in their final Operations Plan. As a means to prevent exceeding their sector's allocation, the PCS anticipates setting aside a percentage of the sector's allocation of each stock as a reserve, creating an artificially low TAC. As the total sector catch approaches the lower TAC, the sector membership will be required to vote on whether to continue to fish on the remaining reserve and/or direct the sector manager to acquire additional ACE. Regardless of the lower TAC and the percentage set aside as a reserve, the Sector Manager will notify NMFS and increase the reporting frequency when the sector has caught 90% of their allocation of any stock.

## **Infractions and Joint and Several Liabilities**

The sector membership will develop a detailed infractions investigation process and penalty schedule that will be described in their final Operations Plan.

## **Sector Benefits**

### *End Overfishing*

Implementation of a PCS will contribute to ending overfishing of multispecies stocks in the Gulf of Maine by allocating pounds of each stock and implementing a Hard TAC backstop. Members will be required to stop fishing in the stock area of any species for which the allocation has been met until the sector acquires additional quota. The PCS recognizes that this could ~~easily~~ mean that the entire Gulf of Maine area could be closed to sector vessels in order to prevent overfishing.

Reauthorization of the Magnuson Stevens Act (MSA) requires catches of all federally managed species to be constrained to below Annual Catch Limits (ACLs) starting in 2010. It is expected that whatever management regime NMFS implements under this reauthorization will steer all Federal fishery management plans to incorporate TAC management in some form. The Sector's voluntary acceptance of Hard TACs is consistent with this future direction of fishery management and should assist fishery managers in moving toward the goal of constraining catches to ACLs.

### *Minimize Bycatch*

The PCS will reduce bycatch by allocating fish to the sector for the year for which they will develop their own fishing plan (pending NMFS approval). Allocation of fish with a Hard TAC as a backstop will allow sector members more time to fish because they will not be subject to DAS and trip limits, so they can fish more selectively. Additionally, sector management because it is a Hard TAC system requires the development a more real time monitoring system to track

catch, so the sector will know right away if they need to stay away from a particular species. Under DAS the fleet is forced to fish on whatever stocks they find in the shortest time possible, be it high or low quality, due to time constraints under the DAS clock. Freedom from DAS will result in fishermen being able to fish again, allowing more selective fishing practices that will have a positive impact on the resource.

The daily trip limits that are designed to protect certain species in the Gulf of Maine often result in regulatory discards (bycatch) of some species, when individual vessels exceed the daily catch limit. Sector vessels will be able to retain 100% of their catch of legal-sized regulated multispecies thereby dramatically decreasing the volume of discards. In addition the PCS will land all legal sized regulated groundfish species (with the exception of limits to halibut, ocean pout, windowpane flounder and Atlantic wolffish) to be monitored and counted by the dockside monitor.

The increased monitoring and reporting, coupled with an allocation that will not be impacted by those outside the sector, and their accountability to their fellow members will promote stewardship and force fishermen to fish in a very responsible and conservation minded way. Currently, members of the PCS do most of their fishing from April until November when the weather allows for safe fishing practices. With the new Sector in place, it is expected that the fishermen from this area may choose a certain time to target each species based on their professional knowledge of seasonal abundance that will maximize their businesses' profitability.

#### *Maximize Economic Benefit*

The PCS will generate economic stability and increased efficiency. Currently, PCS members predominantly fish from April to November. During this long season, there are typically peak periods during which catch rates exceed the daily limits. Under the current management plan (last revised by framework 42), the excess fish is discarded. Under the proposed Sector, each boat will know how much fish they can land in a year. Each fisherman can make his own decisions about how to catch that amount of fish. It is expected that many PCS members will opt to target fish during short discreet seasons when catch per unit effort is maximized. Some vessel owners may opt to harvest cooperatively with other vessels in order to further minimize overhead. In short, the PCS will facilitate an efficient harvest of the resource that will maximize profitability and minimize collateral environmental impacts.

#### *Tailor Regulations to Local Social Needs*

The PCS will tailor their Operations Plan to meet their local needs. Local fishermen are most knowledgeable about how to work together and develop a Final Operations Plan that will meet their goals and objectives. Around the world, there is an increasing amount of attention being placed on the merits of community-based fisheries management due to the social, economic and environmental benefits that are being generated. The PCS is a group of fishermen that have worked together on the water for years, and they share a common vision for the future of their fleet. By securing a Sector allocation (quota) from NMFS, the PCS expects to create a more local management authority with the right to management is a long-term investment in building a connection between our ocean resources and the local individuals that harvest them. If that connection is carefully crafted, it will generate tangible local social, economic and environmental benefits.

### *Conserve Fish Stocks*

For the fishery as a whole, sectors are expected to conserve stocks because it is expected that they will require a Hard TAC backstop. The critical component of this accountability measure will be the new real-time monitoring system that sector vessels will use, thus enabling better data for stock assessments and a quick correction if the objectives of the rebuilding plan are not being met. Sectors members, because they will have an allocation of fish, will have a direct stake in and control over the conservation of the resource. Furthermore if sectors are allowed to carry some portion of their allocation into the next fishing year, members will have a much greater opportunity and incentive to be better stewards of the resource.

### *Conserve Habitat*

Implementation of the PCS may reduce habitat impacts. Because Sector members will operate under a specific allocation and will be able to be more selective and efficient in where, when, how and how much they fish, they expect to increase their catch rates (Catch per unit effort or CPUE). Increased CPUE, combined with a hard TAC backstop could result in less overall fishing time, and therefore less impact on habitat. As mentioned above, members of the PCS are already testing lighter gear on several draggers and are already working on improving fish habitat.

### *Decrease Interactions on Protected Species*

The PCS may have less impact on marine mammals, sea turtles and other protected species because sector members will be operating more efficiently. It is expected that fishing as part of a sector will lead to reduced interactions with protected species and achieve a higher level of protected species conservation than the current management system. For example, by being able to fish more efficiently (but not constrained by DAS), gill net vessels may have less gear in the water, or it may be in the water for a shorter period of time.

## **Amendment versus Operations Plan**

It is expected that Amendment 16 will describe the policies (regulations) to be followed by all multispecies sectors, including such requirements as accepting a Hard TAC on almost all groundfish species, and not exceeding their allocation without substantial penalty. However, sector management has significant benefits if the sectors can have the flexibility to develop their detailed plans for themselves, with appropriate oversight from the Agency and as provided by the federal rule making process. With that in mind, the members of the PCS urge the Council to carefully consider the overarching sector policies while including the necessary flexibility.

## **Proposed to be described in Amendment 16 as rules for all multispecies sectors**

- The allocation formula for allocating pounds of each regulated multispecies stock to sectors (but specifically not for halibut, windowpane flounder and ocean pout)
- A Hard TAC backstop on all regulated multispecies stocks allocated to sectors
- The requirement to have a Sector Manager
- A sector may be allocated more than 20% of the total allocation of any stock
- Any portion of the ACE of any stock shall be transferable between sectors

- Exemptions from specific multispecies regulations applicable to all sectors (universal)
- Specific multispecies regulations for which exemptions *may* be considered and granted
- Guidelines for sector documents that will be required annually
- Requirement for monitoring and reporting beyond what has been done before Am 16
- Requirement for description of compliance (infractions and enforcement) procedures
- Sectors may carry forward a portion of their allocation to the next fishing year
- Sectors will have up to 45 days after the end of a fishing year to balance their catch with their allocation

**To be described in the Final Operations Plan**

- How the ACE allocated to the sector will be allocated to the individual sector members
- A complete description of the sector by number, size and gear of member vessels
- A complete description of the sector's monitoring and reporting plan
- A complete description of the sector's process to ensure compliance including penalty schedule
- Specific multispecies regulations for which the sector requests exemption

If you have any questions or concerns about the contents of this letter, please feel free to contact ~~me~~ one of the individuals below.

Sincerely,

/s/ Glen Libby

Glen Libby

Midcoast Fishermen's Association

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**PORT CLYDE COMMUNITY GROUND FISH SECTOR  
(PCS)**

PO Box 223  
Port Clyde, ME 04855  
207.372.0628

Friday, June 05, 2009

Paul J. Howard, Executive Director  
Patricia Kurkul, Regional Administrator  
New England Fishery Management Council  
50 Water Street  
Newburyport, Massachusetts 01950

Re: Amendment 16 Comments to the NE Multispecies Fishery Management Plan

Please accept this letter in response to the call for public comment on the Draft Environmental Impact Statement (DEIS) for *Amendment 16 To The NE Multispecies Fishery Management Plan* (EIS No. 20090124, Draft EIS, NOA, 00).

**Potential Sector Contributions/Permit History (4.3.3.4)**

The PCS supports option 2: 50% landings history and 50% of the vessel baseline capacity for stocks landed by the permit during FY 1996-2006.

**Implementation of Additional Sectors/Modifications to Existing Sectors (4.4.6)**

The PCS urges the council to implement the requested modifications to existing sectors and to approve the proposals for all new sectors provided they can conform to the general requirements for sectors as detailed in this amendment.

**Revised Monitoring and Enforcement Provisions (4.3.3.5.2)**

The PCS strongly supports the commitment to improved catch monitoring, and enforcement, throughout the entire fishery including the common pool. While we understand that the common pool will be severely limited by tight controls on days at sea the members of our sector would prefer similar monitoring measures throughout the fishery. With no real mortality controls the common pool "could" potentially exceed the TAC on a given species resulting in a catch reduction for all fishermen including those in sectors. An adequate safeguard is needed to preclude this eventuality.

The PCS also supports option 2 for the dockside programs. When combined with enhanced monitoring at sea, the availability of 100% dockside monitoring will allow for the needed accounting of all catch in the fishery – discarded, put in the hold, transferred, and landed fish.

**Common Pool Vessels Accountability Measure Alternative 1 – "Hard"  
Total Allowable Catch (TAC) (4.4.7.1.1)**

The PCS strongly supports Alternative 1 to implement a Hard TAC on the common pool. The fishery needs to be treated equitably. While we understand that the common pool will be severely limited by tight controls on days at sea the members of our sector would prefer similar mortality control measures throughout the fishery. With no real mortality controls the common pool "could" potentially exceed the TAC on a given species resulting in a catch reduction for all fishermen including those in sectors. An adequate safeguard is needed to protect the fishing rights of all fishermen and prevent a potential overage by one group from impacting another. A Hard TAC on the common pool is also likely to cause more fishermen to make the final decision to join sectors, which will aid the region in its transition away from the failed DAS system toward an output based management.

Sincerely,

Glen Libby  
Chairman





**PORT CLYDE COMMUNITY GROUND FISH SECTOR  
(PCS)**

PO Box 223  
Port Clyde, ME 04855  
207.372.0628

Friday, June 05, 2009

Paul J. Howard, Executive Director  
Patricia Kurkul, Regional Administrator  
New England Fishery Management Council  
50 Water Street  
Newburyport, Massachusetts 01950

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Sincerely,

Glen Libby  
Chairman

# NORTHEAST SEAFOOD COALITION

June 8, 2009

Patricia Kurkul, Regional Administrator  
National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930

Re: DEIS for Amendment 16 to the Northeast Multispecies FMP

Dear Ms. Kurkul,

It has been over two years since members of the Northeast Seafood Coalition ("NSC") submitted requests to the New England Fishery Management Council ("Council") to form Sectors. At that time the Council had not yet deliberated on a definition for a Sector. Without Council guidance, the titles chosen during submission were intended to reflect the commercial fishing sectors now operating in the fishery as viewed in the context of vessel size, gear and geography (port), where Northeast Seafood Coalition members participate.

The draft Amendment 16 document now contains language that clarifies the definition of a sector. The intent of this new definition is to update the Amendment 13 language in order to be more reflective of Sector formation and current Council policies. This new definition is as follows:

#### *4.3.3.1 Sector Definition/Formation of a Sector*

##### *Revisions to Sector Definitions/Formation of a Sector*

*A sector means a group of persons holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) in order to achieve objectives consistent with applicable FMP goals and objectives. In the formation of a sector, sector participants can select who may participate.*

Based upon this definition, NSC requests to change the titles of the Sectors working with the Northeast Seafood Coalition to the following:

# NORTHEAST SEAFOOD COALITION

<u>NEW SECTOR TITLE</u>	<u>SECTOR TITLE AS CURRENTLY LISTED IN THE DRAFT A16 DEIS</u>
Northeast Fishery Sector I	<i>Gloucester/Boston Trawl Gulf of Maine and Georges Bank Sector</i>
Northeast Fishery Sector II	<i>Gloucester Trawl/Western Gulf of Maine Sector</i>
Northeast Fishery Sector III	<i>Gloucester Fixed Gear Sector</i>
Northeast Fishery Sector IV	<i>New Bedford and Southern New England Fixed Gear Sector</i>
Northeast Fishery Sector V	<i>Point Judith and Southern New England Trawl Sector</i>
Northeast Fishery Sector VI	<i>Pier 6 Initiative</i>
Northeast Fishery Sector VII	<i>New Bedford Deep Water Trawl Sector</i>
Northeast Fishery Sector VIII	<i>New Bedford Channel Trawl Sector</i>
Northeast Fishery Sector IX	<i>Point Judith and Southern New England Offshore Trawl Sector</i>
Northeast Fishery Sector X	<i>South Shore Trawl Sector</i>
Northeast Fishery Sector XI	<i>New Hampshire and Southern Maine Fixed Gear Sector</i>
Northeast Fishery Sector XII	<i>New Hampshire and Southern Maine Trawl Sector</i>
Northeast Fishery Sector XIII	<i>South Shore Fixed Gear Sector</i>

NSC also requests that the current descriptions for each Sector be changed to the following for each Sector working with the Northeast Seafood Coalition:

Working with the Northeast Seafood Coalition, this sector will consist of multiple permits qualified to enroll in a sector. There would be no limit to the number of permits that could be enrolled in the sector (unless the council implements a cap). Although there would be no internal limits on permit membership, the sector anticipates a range of 12 to 35 active vessels fishing on the sector ACE in any given fishing year. The sector will list all permits and distinguish active vessels in the annual Operations Plan. This sector will operate within a network of thirteen sectors for the purpose of achieving economy of scale for management, monitoring, database, trading and other services and to improve compatibility between the individual sector operations.

**Primary hailing and unloading ports:** The sector will designate primary and secondary hailing and unloading ports and associated dockside monitoring systems in the Operations Plan to be submitted prior to each year of operations.

**Gear:** The sector will propose primary and secondary gears in the Operations Plan.

**Area:** In their Operations Plan, the Sector will describe the fishing area/s in which they intend to be operating in the coming fishing year. The plan will distinguish between



# NORTHEAST SEAFOOD COALITION

primary and secondary areas and will describe the relative efforts anticipated in primary and secondary areas.

Sincerely,

*Jackie Odell*

Jacqueline Odell  
Executive Director



# NORTHEAST SEAFOOD COALITION

*Resubmitted as an attachment to the Northeast Seafood Coalition draft Amendment  
16 comments June 8, 2009.*

May 3, 2007

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

Dear Captain Howard,

The underlying biological and ecological complexities of the New England groundfish fishery alone make this one of the most difficult to manage in the Nation. Compounding this complexity has been the evolution of a 'crazy quilt' of management measures that have disproportionately manipulated the behavior and catch history of the diverse fishing operations covered by this plan. Consequently, as has been widely anticipated, the Council's development of any allocation policies and strategies for this fishery will be exceedingly difficult.

NSC has been on record raising concerns to the Council that it must follow the most deliberate and transparent process possible in developing any allocation policies and strategies for the groundfish fishery that are fair and equitable to all participants. For example, on January 25, 2005, NSC sent a letter to then Chairman Frank Blount expressing grave concerns regarding certain allocative aspects of Framework 42. In that letter, NSC expressed concerns over "the allocation process degenerating into an *ad hoc*, first come first serve feeding frenzy that allocates access to groundfish resources inequitably among select participants in the New England groundfish fishery", and that "all permit holders must be given a reasonable and equal opportunity to participate in a decision-making process that is completely transparent to those participants."

Unfortunately, it does not appear that our letter had any lasting effect. A little more than two years later our concerns with the Amendment 16 / Sector Omnibus processes dwarf those we expressed about the FW42 process. At first, we were very optimistic that the Council was to follow a highly constructive path of soliciting and developing new and innovative ideas for more effectively conserving and managing groundfish biologically, and for allocating this fishery in the most fair and equitable, and least disruptive manner possible. NSC was pleased to have the opportunity to float one such proposal for creating a common currency (Points) for use in an effective catch-based (output control) management system.

Notwithstanding that promising start, it appears to us that the Amendment 16 / Sector Omnibus processes are now rapidly devolving into a race to take advantage of what

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# NORTHEAST SEAFOOD COALITION

may be unintended loopholes in the Magnuson-Stevens Reauthorization Act (MSRA) treatment of sectors in the new allocation policies. This may have profound and irreversible unintended consequences on the fishery and region. NSC had worked closely alongside other fishing groups and the conservation community to assist Congress in developing allocation policies and procedures for Limited Access Privilege Programs (LAPPs) designed to protect the interests of small and family owned/operated businesses, and of fishing communities vulnerable to reallocation. In particular, key members of the New England Congressional Delegation also insisted on the inclusion of provisions that ensure all New England fishermen have access to a deliberate and transparent referenda process for the consideration of any Individual Fishing Quota (IFQ) program.

In contrast, the ongoing Amendment 16 / Sector Omnibus discussions have yet to even draw the necessary distinction between using a sector as a legitimate management tool to achieve economic and administrative efficiencies and improve accountability in a fishery for which an allocation system is already in place versus using a sector to circumvent the hard-won statutory allocation policies and procedures that were deliberately designed to ensure fairness, equity, transparency and accessibility for all fishermen in an allocation process. As we all know, the later process now being followed is reliant on insufficiently developed sector policies and procedures set forth in Amendment 13. The apparent result will be the piecemeal re-allocation of the fishery that is tantamount to an IFQ program through a process that is far from transparent, and would be subject to inadequate review and accountability to the Council, industry and other stakeholders. We believe this is unacceptable and grossly inconsistent with Congressional intent.

Nevertheless, NSC has a responsibility to its large and diverse membership to provide frank information and advice concerning the direction and implications of the Amendment 16 / Sector Omnibus processes, particularly in the context of the April 30th deadline for Fishing Year 2008 sector applications. Given these circumstances, we felt we had no choice but to advise our membership to take immediate action to protect their best interests by submitting appropriate sector applications. If the NE groundfish fishery is to be irreversibly reallocated piecemeal through a series of IFQ programs disguised as sectors, then we feel it is incumbent upon us to ensure our members also have a secure seat at that table. Although the term "sector" has never been adequately defined, as a matter of practical reality, these applications define all of the true commercial fishing sectors now operating in the fishery as viewed in the context of vessel size, gear and geography (port). NSC's membership includes participants in all of these sectors.

It should be clearly understood that the submission of these sector applications in no way implies that NSC and its members have abandoned their commitment to work

# NORTHEAST SEAFOOD COALITION

with the Council on its originally-stated objective to develop innovative and more biologically-responsive catch-based management alternatives through a deliberate and highly transparent process that is accessible to all fishermen, and that will result in a fair and equitable allocation of the fishery that minimizes reallocation and is least disruptive to NE fishing communities. We hope that these sector applications will become nothing more than placeholders in a vigorous sector evaluation process that will occur subsequent to the thoughtful establishment of an allocation system. But again, our members must protect their best interests since the ongoing process appears to incorrectly place the 'sector cart' before the 'allocation horse'. NSC continues to believe that the Points System would provide a highly desirable allocation foundation that is consistent with the Council's stated Amendment 16 objectives, and on which sectors could be overlaid very effectively. The Points System is also very responsive and accountable to the intense dynamics of the groundfish stocks and ecosystem.

It is our sincere intent for this letter to clarify NSC's recent actions on sector applications, and why we are so hopeful that the Council will remain on track to pursue a deliberate and transparent Amendment 16 / Sector Omnibus process that ultimately will fully consider and embrace the legitimate interests of all groundfish fishermen in the region.

Thank you for your consideration. We would be pleased to discuss this further with you or any of the Council members and staff at your pleasure.

Sincerely,

Jackie Odell  
Executive Director

cc: Pat Kurkul  
John Pappalardo





# NORTHEAST SEAFOOD COALITION

June 8, 2009

Patricia Kurkul, Regional Administrator  
National Marine Fisheries Service  
Northeast Regional Office  
55 Great Republic Drive  
Gloucester, MA 01930

RE: DEIS for Amendment 16 to the Northeast Multispecies FMP

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## GENERAL COMMENTS

As the attached May 2007 letter to Paul Howard expressed, NSC had grave concerns with the process being followed by the Council and Agency with respect to Amendment 16. Of specific concern was the decision to commit to sector management and move forward with developing specific policy details of sector design and operations without resolving in advance a definitive policy on allocating the fishery.

The allocation of a fishery may be the most profound and far-reaching decision to be made by any Council. It must follow the most deliberate and transparent process possible so as to achieve the most fair and equitable result for all participants in the fishery. Congress fully recognized this reality in part by including referenda requirements in the Magnuson-Stevens Act policies for Individual Fishing Quotas (IFQs) development. This process provides all fishermen with a level playing field to decide if and how to allocate the fishery.

Although a pale distinction from IFQs, Congress exempted Sectors from the referenda requirements but that did not diminish the underlying need for the Council and Agency to achieve fairness and equity in sector-related allocation policies. Instead, the simultaneous development of sector and allocation has been anything but deliberate and transparent to anyone but those who have the time to be very closely involved in the Amendment 16 process. Many fishermen feel they have been put into a box and placed at a significant disadvantage to those who had the ability to participate first-hand in the Amendment 16 process.

NSC's primary concern was then and continues to be now that all NE groundfish fishermen—not just our members—have all of the information they need to make a sound and informed decision concerning their futures and to protect their best interests in whatever direction the

Council and Agency chooses. Indeed, NSC's decision to commit itself to sponsoring 13 sectors was entirely for that purpose.

More than 2 years later we may be more concerned today than we were when we sent that letter to Captain Howard. Fishermen have just received-- only a few days before having to participate in public hearings-- the most basic information about their catch histories. It will not be until at least September that fishermen will be advised as to what the actual TACs for the stocks will be and, therefore, what their catch histories mean in terms of actual pounds of fish and dollars of revenue. It is only that level of information which can enable a serious businessman to make such fundamental decisions about whether to join a sector or remain in the 'common pool'; whether to actively fish or lease their catch share, or whether to remain in the fishing business at all. NSC remains very concerned that this process has not been sufficiently fair, equitable, transparent or timely for our fishermen.

## SPECIFIC COMMENTS

### **(1) Sector Baselines (§ 4.3.3.3.4 & § 4.3.5)**

NSC recommends that the Council adopt a baseline period for all commercial sectors and for the recreational fisheries that is exactly the same for each. Any deviation from this has a strong potential to violate MSA National Standard 4. With this in mind:

- NSC strongly supports the same baseline for all commercial sectors as is reflected in current Options 1 – 4 of section 4.3.3.3.4
- NSC strongly opposes Option 5 which would have the effect of creating a special baseline period for the two existing sectors that is distinct from all of the 17 anticipated sectors to be approved under Amendment 16 of section 4.3.3.3.4.
- NSC strongly supports Option 1 for GOM cod and Option 1 for GOM haddock for the recreational fisheries under section 4.3.5.

### **(2) Transfer of Annual Catch Entitlements (§ 4.3.3.7)**

**ACE Transferability** -- The transfer of Annual Catch Limits within and between sectors is fundamental to achieving the objectives of Amendment 16 including improvements to compliance, efficiency and utilization of the Optimum Yield (OY), and to reducing discards. NSC envisions an active and robust ACE trading system as being central to the success of this sector management system and strongly supports the Council's adoption of Option 2 under section 4.3.3.7.2.

**Catch History Freeze--** The treatment of catch history in the context of intra and inter sector ACE trading will determine whether an active and robust ACE trading system will be possible to achieve. Specifically, there will be a very strong disincentive to trade ACE if the catch history associated with traded ACE accrues to the permit that catches the fish as it would be under the current accounting system. The value of any permit will be progressively and perhaps permanently diminished as its ACE is traded away for use by another permit. Concerns about the future value of permits will stifle the ACE trading system.

NSC strongly recommends that the Council address this problem by adopting a policy to freeze catch history under Amendment 16 as expressed in the following suggested provision:

“Upon implementation of Amendment 16 (May 1, 2010), and continuing until amended by a future plan Amendment, catch / landings history resulting from fishing or leasing activities will not accrue to individual permit histories.”

This provision is not intended to alter existing fisheries statistics accounting methods. The intent is to proscribe the use of landings records credited to individual vessels during the Amendment 16 period for the purpose of a future allocation baseline. Landings records during this period would be essentially ineligible for allocation purposes. This provision applies only to those fish stocks managed under the Northeast Multi-Species FMP.

This prohibition can be lifted by a future council by Plan Amendment and does not “tie the hands of a future council” from doing so. However, the provision and explanation should be drafted such that a future Council would fully understand the implications and rationale for this provision and be appropriately discouraged from retro-actively reversing this Council’s intent for Amendment 16.

Further, because this provision would not take effect until May 1, 2010, (or upon implementation of A16), it would not preclude a future council from utilizing any portion of the period prior to implementation of A16. The A16 PSC baseline is likely to be 1996 through 2006. This proposed provision leaves the 2007, 2008 and 2009 fishing years eligible for use as a catch history period in a future action.

Overall, the purposes and benefits of this provision would be to:

1. Relieve the decisions involving intra and inter sector ACE trading / leasing from the concerns of future permit value implications due to the status quo attribution of landings history.
2. Improve the effectiveness of the “full retention of legal sized fish” requirement by removing the catch history implications of quota trading.
3. Provide a clear policy that will not artificially incentivize activation of permits onto working sector or common pool vessels that may otherwise enroll in the sectors through the CPH method.
4. Provide a sensible alternative to operating in the common pool by removing the ability to create catch history during A16.

### **(3) Allocation of Resources to Sectors (§ 4.3.3.3)**

NSC notes that according to the recent stock assessment the hard TAC for Southern New England Winter Flounder (SNE WF) allocated to sectors will be zero. Therefore, virtually any catch (discards) of this stock will immediately cause the entire SNE WF stock area to be closed to sector fishing. In contrast, under section 4.4.7 Option 2, for example, common pool vessels would likely have a zero-retention limit and continue to fish.

NSC further notes that under section 4.3.3.3.1, Sectors will be allocated a hard TAC of all regulated groundfish stocks with the exception of halibut, ocean pout, and windowpane flounder. NSC strongly recommends that SNE WF be added to this list of unallocated stocks until such time as a future stock assessment results in a TAC for this stock that can be allocated to the sectors.

### **(4) Sector Monitoring and Enforcement (§ 4.3.3.5.2)**

The treatment by Amendment 16 of sector and sector member liability is central to the decision by fishermen of whether or not to participate in a sector and is, therefore, central to whether Amendment 16 sector management system will succeed.

NSC strongly supports Option 2 regarding sector liability as being the only practical option that will achieve the dual objectives of ensuring compliance with key sector obligations and providing an environment that does not discourage sector participation.

### **(5) Accountability Measures for Common Pool (§ 4.4.7)**

Many fishermen remain very unsure of whether to participate in a sector. Exacerbating the difficulty of this decision is the late timing of information that is absolutely critical to these decisions including the individual catch histories and the stock TACs mentioned above. Furthermore, Sectors are self-selecting and are under no obligation to accommodate a fisherman who may want to participate. Not every fisherman has an equal opportunity to participate in a sector.

Consequently, the common pool may become a reality for many more fishermen than the Council or Agency is anticipating. Irrespective of why any given fisherman is in the common pool come Fishing Year 2010, every US fisherman (sector or common pool) must be treated fairly and equitably and in accordance with all of the same National Standards under the law.

Two options for Accountability Measures are presented for consideration for common pool vessels in the commercial fishery. The first option would place the open-access common pool under Hard TACs which would guaranty an unsafe derby fishery and a very rapid closure due to the weakest-stock effect. The practical impact of this option is in stark contrast to how Hard TACs work under sectors. Inherent

to sector participation is the ability to maximize the utilization of the TACs of all allocated stocks through ACE transferability and thereby minimize the weakest stock effect.

NSC strongly recommends adoption of Option 2 under section 4.4.7.1.2 which provides a more balanced approach to addressing TAC overages and is consistent with how the non-sector fishery is managed today.



