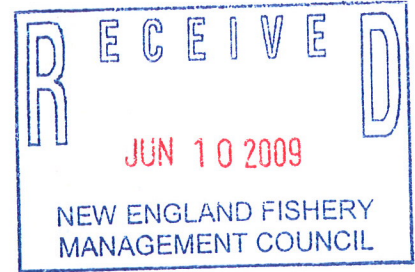


**Amendment 16 Public Comments
Letters received from Government Agencies**



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

JUN 10 2009



John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

This letter presents comments from NOAA's National Marine Fisheries Service (NMFS) regarding measures in the Draft Environmental Impact Statement (DEIS) for Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP). The comments are specific to aspects of the document that should be addressed prior to final adoption of Amendment 16 by the New England Fishery Management Council (Council) at its June meeting. Additional editorial comments will be submitted directly to Council staff.

Section 4.2: Updates to Status Determination Criteria and Formal Rebuilding Programs

This section describes updated status determination criteria and includes summaries of new rebuilding programs the Council is considering under Amendment 16.

- Section 4.2.2.2.1 (p. I-73): In discussing fishing mortality rate (F) reductions necessary to rebuild pollock, this section cites the National Standard 1 Guidelines language that states, in cases where an overfished condition of a stock is due to excessive international fishing pressure, a Council may develop recommendations for domestic regulations to address only the relative impact of U.S. fishing vessels on the stock. The discussion in Amendment 16 presumes that the pollock fishery falls under the premise of section 304(i) of the Magnuson-Stevens Fishery Conservation and Management Act, as revised. According to this section, the Secretary of Commerce must make the determination that pollock is overfished due to excessive international fishing pressure. NMFS is currently considering whether the pollock fishery falls under the premise of section 304(i), but no such determination has been made to date. Therefore, unless such a determination is made by the Secretary of Commerce, measures to rebuild pollock proposed under Amendment 16 should be based upon the entire stock, including both U.S. and Canadian catches.

Section 4.3.1.2: Annual Catch Limits (ACLs)

This section outlines the development of ACLs and the distribution of ACLs among segments of the fishery that catch groundfish.

- Section 4.3.1.2.2 (p. I-77 and I-79): This section indicates that changes to ACLs will be made either through a framework process or through a specifications package. The current regulations outlining the requirements of framework actions and biennial adjustments indicate that the Council should submit its recommended action on or before December 1 for proposed and final rulemaking. The DEIS states that the Council may submit ACL changes through a specifications package or through a biennial adjustment prior to December 15. NMFS recommends that any changes to ACLs be made as early as possible, and preferably no later than December 1.



- Because individual accountability measures (AMs) are not proposed for all elements of catch for each stock, catch of that stock in other fisheries could contribute to overfishing of the entire groundfish stock and lead to more restrictive measures for the groundfish fishery in the future to reduce F (see p. I-537 of the Amendment 16 DEIS). Since sector participants would be protected from being held accountable for overages by other components of the fishery, the components of the fishery that would be responsible for any additional measures to address excessive groundfish bycatch by other fisheries are limited to non-sector commercial and recreational vessels. To avoid this possibility, the Council may want to specify a default AM in the form of an overage deduction or other mechanism for these “other sub-components of the ACL.” Although the Council is considering developing AMs for yellowtail flounder caught in the scallop fishery under Amendment 15 to the Atlantic Sea Scallop FMP, the Council should also consider specifying a similar default AM for the yellowtail flounder catch set aside for the scallop fishery under Amendment 16 if the development of Amendment 15 to the Scallop FMP is delayed.
- Section 4.3.1.2.4 (p. I-80): This section proposes that, if an ACL is exceeded in year one, the overage would be evaluated to determine if the ACL should be adjusted in the second year. As we stated in our February 6, 2009, letter to the Council, NMFS continues to have concerns with timing issues associated with this provision and recommends that any adjustments to ACLs should be implemented via the biennial adjustment process.
- Section 4.3.1.2 proposes ACLs for all groundfish stocks, including several stocks that sector and/or non-sector vessels are prohibited from landing (*i.e.*, Southern New England (SNE)/Mid-Atlantic (MA) winter flounder, both stocks of windowpane flounder, ocean pout, and Atlantic wolffish if incorporated into the FMP), and allows only one Atlantic halibut to be retained per trip. By proposing to minimize the landing/retention of these stocks, the Council is proposing to prevent overfishing by eliminating the directed fishery for these stocks. This suggests that the allocated ACL for these stocks would be used exclusively for accommodating bycatch and discards at this time. This should be clearly explained in this section, and revisions to these ACLs or any associated AMs should be made through the biennial adjustment process, as appropriate. As noted above, because no sector-specific allocations are proposed for Atlantic halibut, windowpane flounder, and ocean pout, any additional measures implemented due to overages of these ACLs would presumably be borne solely by non-sector commercial and recreational vessels.
- If the Council incorporates Atlantic wolffish into the NE Multispecies FMP, as proposed in Section 4.3.2 (p. I-82), this species must also be incorporated into the mechanism for specifying ACLs outlined in Section 4.3.1.2 of Amendment 16.

Section 4.3.3.3: Allocation of Resources to Sectors

- This section indicates that sectors would not be allocated annual catch entitlement (ACE) for Atlantic halibut, windowpane flounder, or ocean pout. Because the Council is proposing to eliminate the directed fishery for SNE/MA winter flounder by reducing F to as close to zero as practicable, the Council should consider treating this stock in the same manner as the stocks listed above. If the Council does not treat SNE/MA winter flounder in this manner, any sector that is not allocated ACE for that stock would be prohibited from fishing in the SNE/MA winter flounder stock area unless it was able to acquire ACE for that stock from another sector. In addition, if the Council incorporates Atlantic

wolffish into the FMP and prohibits the retention of this species by all vessels, Atlantic wolffish should also be included with these other stocks.

Section 4.3.3.4: Sector Mortality/Conservation Controls:

- Amendment 16 would prohibit sector vessels from landing ocean pout and windowpane flounder, while prohibiting non-sector vessels from landing SNE/MA winter flounder and windowpane flounder, but not ocean pout. Consistent with recommendations listed above, the Council should consider treating SNE/MA winter flounder in the same manner for all groundfish vessels, both sector and non-sector vessels.

Section 4.3.3.5.4: Sector Monitoring Requirements

- To clarify how assumed discard rates would be calculated, and to allow for such rates to utilize the most accurate information available, NMFS recommends the following revisions to Options 1 and 2 (revised text is underlined):
 - Option 1 should be revised to read, “The discard rate used will be based on the discard methodology used in the most recent assessment for the stock, using a gear-specific estimate if available.” This would provide the most flexibility in administering this provision and would allow periodic updates based upon additional observer data.
 - Option 2 should be revised to read, “A sector-specific discard rate would be calculated for each stock and gear based on observer data from the previous year. If NMFS determines there are insufficient data to estimate discard rates at this fine of a scale, the fleet-wide stock and gear discard rate would be used for those sector-gear combinations.” This would enhance the ability for NMFS to administer this provision, should sector-specific data be insufficient.

Section 4.3.3.8: Sector Participation in Special Management Programs

- Special management program-specific reporting requirements for sector vessels may not be necessary, as they are redundant with weekly sector reporting requirements proposed under Amendment 16. In addition, sector catch within special management programs would not affect operations by non-sector vessels, due to sector-specific allocations of ACE for each stock and, if approved, for Eastern U.S./Canada Area portions of the Georges Bank (GB) cod and haddock stocks. Therefore, NMFS recommends that the reporting requirement language in this section be revised to allow the flexibility for NMFS to remove such reporting requirements to minimize unnecessary duplication, similar to the language on p. I-119 for the area-specific reporting requirements.

Section 4.3.7: Non-sector Participation in Special Management Programs

- Section 4.3.7.4.2 (p. I-129): NMFS cautions that revisions to the Closed Area II Yellowtail Flounder Special Access Program (SAP) could result in the premature closure of the Eastern U.S./Canada Area to non-sector vessels and the triggering of AMs for GB winter flounder due to high catch rates for GB cod and GB winter flounder, respectively, in the SAP area.
- Section 4.3.7.6.2 (p. I-130): The proposed allowance of 6-inch mesh while participating in the Regular B Days-at-Sea (DAS) Program could pose enforcement concerns, should a vessel catch a sufficient amount of a stock of concern and be required to flip to a

Category A DAS, which requires the use of larger mesh. This requirement could also pose safety concerns, especially if vessels are required to remove the 6-inch mesh codend and replace it with a 6.5-inch codend while at sea to comply with gear requirements when fishing under a Category A DAS.

Section 4.4.2: Commercial Fishery Measures

- Again, the Council should consider treating SNE/MA winter flounder, windowpane flounder, ocean pout, and Atlantic wolffish in the same manner by prohibiting all groundfish vessels, including commercial, recreational, sector, and non-sector vessels, from landing and/or retaining these species. Currently, the commercial non-sector measures listed in Section 4.4.2 would prohibit the landing of SNE/MA winter flounder and windowpane flounder, but would not prohibit the possession of ocean pout similar to the sector measures in Section 4.3.3.4.
- **Section 4.4.2.3 and 4.4.2.4 (p. I-142-145): Non-Sector Vessel Options 3A and 4**
 - As stated in my February 6, 2009, letter to the Council, the Council should not adopt the use of specific gears in either the special management programs or non-sector effort control alternatives under Amendment 16 unless and until the effectiveness of such gear is demonstrated through peer-reviewed experimental research. Additional gear could be approved for use in the fishery consistent with the provisions proposed in Section 4.3.7.7 of Amendment 16.
 - As stated in my February 6, 2009, letter to the Council, the Council should more thoroughly describe how gear restricted areas would be implemented under these alternatives. NMFS offers the following recommendations:
 - A letter of authorization (LOA) or specific vessel monitoring system declaration to fish in these areas should be required. If a LOA is required, the minimum participation period should be 7 days.
 - A vessel could fish inside/outside of these areas on the same trip, but should be subject to the most restrictive measures (gear, trip limits, etc.).
 - Existing gear performance standards should apply to gear used in these areas.
 - Other gear should not be allowed on board when operating in these areas.
 - There are also several outstanding questions related to the description of the rope trawl that need to be resolved prior to the Council's adoption of Amendment 16:
 - What is the mesh size in the front part of the net?
 - Where in the trawl is the leading edge of the separator panel (at the mouth of the net, or behind the fishing circle by a specific length)?
 - What is the appropriate spacing and length of the parallel ropes of the separator panel?
 - What is the minimum size of the escape opening and where is it located along the bottom of the net?

Section 4.4.2.6: GOM Haddock Sink Gillnet Pilot Program

- As stated in my February 6, 2009, letter to the Council, we continue to have a concern that, without adequate observer coverage, it may not be possible to ensure that this program is able to selectively target haddock without increasing the catch of GOM cod and pollock. Because this program is analogous to a SAP, it should be supported by appropriate research.

Section 4.4.3: Recreational Measures

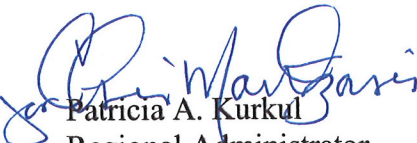
- Option 2 of Section 4.4.3.1 (p. I-150) proposes to allow recreational vessels to land fillets, provided fillets have at least 2 square inches of contiguous skin. It is important to note that, as proposed, this provision would only apply to species with a recreational allocation of an ACL (i.e., only apply to GOM cod and GOM haddock). This should be revised to apply to all stocks, otherwise the enforceability of this provision is minimized.

Section 4.4.7: Accountability Measures

- Section 4.4.7.1.1: Trimester TAC AM
 - If the Council adopts this AM, the white hake possession limit proposed in this section (p. I-166) would be implemented in addition to the other effort controls in Section 4.4.2. Because white hake does not require additional F reductions under this action, the reduced white hake trip limit listed in Section 4.4.7.1.1 may be unnecessary, especially in conjunction with continued effort reductions proposed in this action for other stocks.
- Section 4.4.7.2: Recreational AMs
 - As stated in my February 6, 2009, letter to the Council, Option 1 of Section 4.4.7.2.1 (p. I-169) is not consistent with the intent of AMs, as specified in the National Standard 1 Guidelines, because it would not be a formulaic response to an ACL overage. Further, we remain concerned that this option does not provide sufficient time to implement the AM by the deadlines proposed. Option 3 would pose similar concerns. To mitigate these concerns, Options 1 and 3 should include a default AM, should the development of an AM through the Council process delay implementation.

Thank you for considering these comments, which we think are important to address prior to Council adoption of Amendment 16. Additional editorial comments will be sent directly to Council staff. My staff is available to discuss these comments with your staff, if you have questions regarding this letter.

Sincerely,


Patricia A. Kurkul
Regional Administrator

cc: Paul J. Howard, Council Executive Director



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
408 Atlantic Avenue – Room 142
Boston, Massachusetts 02210-3334



June 8, 2009

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Patricia A. Kurkul, Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2276

RE: COMMENTS
Draft Environmental Impact Statement (DEIS) for Amendment 16 to the Northeast
Fisheries Multispecies Management Plan

Dear Ms. Kurkul:

The U.S. Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for Amendment 16 to the Northeast Multispecies Fishery Management Plan. The Department has no comment on the DEIS.

Thank you for the opportunity to review and comment on this DEIS. Please contact me at (617) 223-8565 if I can be of assistance.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

OFFICE OF THE
REGIONAL ADMINISTRATOR

June 4, 2009

Patricia A. Kurkul
Regional Administrator
Northeast Regional Office
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930

RE: Draft Environmental Impact Statement for Amendment 16 to the Northeast Multispecies Fishery Management Plan (CEQ # 20090124)

Dear Ms. Kurkul:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we have reviewed the Draft Environmental Impact Statement (DEIS) for Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The DEIS is a thoughtful and comprehensive document that effectively addresses the highly complex nature of managing multiple fish species. Unfortunately, 12 of the 19 stocks managed under this fishery management unit (FMU) are considered overfished despite years of fishing restrictions designed to reduce fishing and bycatch mortality. However, the implementation of new approaches for New England fisheries management (e.g., fishing sectors) provide hope that declines in stocks can be reversed without devastating our fishing communities.

Based on our review of the DSEIS we have no objections to the project as described and we rate this EIS "LO-1 - Lack of Objections-Adequate" in accordance with EPA's national rating system, a description of which is attached to this letter. EPA offers the following minor comments on the DEIS for your consideration as you work to develop the Final Environmental Impact Statement. The comments are listed in the order the applicable sections appear in the DEIS.

4.2.2. Purpose and Need

Most of the "needs" listed on DEIS page I-48 are expressed in overly general terms that are likely applicable to all FMPs. The purpose and need section would benefit from a description of the factors that prompted the need for Amendment 16. Some of the information provided in the previous section on prior management actions could perhaps be helpful. If the regulations under Amendment 13 and subsequent framework

adjustments are inadequate for meeting the legal requirements established in the Magnuson-Stevens Fishery Conservation and Reauthorization Act (MSA) of 2006, we recommend that the “Needs” column listed on page I-48 include the specific regulatory requirements that form the basis for the measures developed to meet those requirements.

For example, instead of the listed “need” being “End overfishing,” it should state, “End overfishing by 2010/2011 consistent with the status of the stock and the requirements of the MSA of 2006.” Firm deadlines are established in the MSA of 2006, according to the DEIS (p. I-42) and that could also be referenced in the purpose column with a bullet that reads “meet requirements of MSA of 2006.” If other specific reasons prompted the development of Amendment 16, we recommend that they be listed under this section in the FEIS as well. In addition, the EIS should describe how realistic it is to assume that the deadlines will be met as well as what interim steps (if any) will be taken to address the near term horizon before overfishing is to end per the MSA of 2006.

4.3.3.2.2 Option 2 – Additional Requirements

This section identifies additional requirements for the development of a sector under Option 2. Among the requirements listed is the need for the development and approval of a NEPA document that assesses the impacts of forming a specific sector. The DEIS identifies contracts developed by West Coast and Alaskan whiting and pollock cooperatives as possible guides for determining the form and content of the NEPA documents. While these contracts may be helpful, additional guidance for developing acceptable NEPA assessments and documents should be provided in Amendment 16 if this option is selected, and referenced in the FEIS. Clear and specific guidance on NEPA document development should result in less confusion by sector members over NEPA requirements, and the development of more informative documents.

4.4.4.2 Option 2 – Increase in Atlantic Halibut Minimum Size

The stated rationale for this option is that this increase in minimum size matches the median length at maturity for female haddock in the Gulf of Maine. The DEIS does not explain how matching the minimum size limit of Atlantic halibut to that of haddock is expected to increase spawning opportunities for halibut. Since the connection between these two species is not intuitively clear, beyond their demersal nature, this relationship should be better explained in the FEIS.

6.2.2.2 Addition of Atlantic Wolffish to the Management Unit

This section discusses the option of adding Atlantic wolffish to the multispecies fisheries management unit (FMU). According to the DEIS, available data since the 1980’s indicate that this species is being overfished. The DEIS explains that without being included under a management unit, there would be no means under the MSA to identify essential fish habitat (EFH) for this species, or develop a formal rebuilding plan. Clearly, these actions would benefit this species. However, the DEIS states that no

additional habitat protection would result from adding wolffish because no additional EFH would result that hasn't already been identified for another managed species.

Although the use of complex bottom habitat is not unique to Atlantic wolffish, its reproductive strategy requires a prolonged period of incubation. According to life history information provided in the DEIS, Atlantic wolffish lay demersal eggs in gelatinous masses that take up to nine months to hatch. With the possible exception of some skate species, this period of external incubation appears to be much longer than any of the managed species in New England. Eggs from ocean pout, which utilize similar habitat to wolffish, hatch after two to three months. Ocean pout biomass is at an all-time low after declining most years since the mid-1980's, despite reductions in fishing mortality. Although the eggs of both of these species are normally deposited in the relative protection of rocky areas, their long incubation periods make them much more vulnerable to disturbance or destruction from mobile gear designed for such bottom, or other human activities that may occur in this habitat.

If the Atlantic wolffish is added to the multispecies FMU--and EPA recommends that it is--then the unique use of designated EFH for the Atlantic wolffish egg lifestage should be given special consideration in future FMPs given the poor status of the stock. The vulnerability of Atlantic wolffish eggs to disturbance from mobile gear should be discussed in the FEIS if this species is selected for inclusion under the multispecies FMU.

Other

The DEIS uses the acronym "VEC" multiple times before the term is defined on page I-692. To ensure its meaning is understood, it would be helpful to have this acronym spelled out in the FEIS at first use in the text, and included under the list of acronyms and the glossary.

Thank you for the opportunity to review the DEIS. Please contact Timothy Timmermann of EPA's office of Environmental Review at (617) 918-1025 with any questions or comments.

Sincerely,



Ira W. Leighton
Acting Regional Administrator

enclosure

Summary of Rating Definitions and Follow-up Action

Environmental Impact of the Action

LO--Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1--Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2--Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3--Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Congress of the United States
Washington, DC 20515

June 5, 2009

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

Dear Ms. Kurkul:

We are writing in regards to the pending implementation of the final management measures in Amendment 16 by the New England Fisheries Management Council (Council).

As you know, we are at the threshold of dramatic and vital changes in the way fishing occurs in New England. Recently, substantial federal funding has been committed to assist our fisheries in their transition to catch-based management, including community-based harvesting cooperatives known as Sectors. Through the careful development of the Sector concept as proposed in this amendment, New England has an opportunity to greatly improve the sustainable management of our fisheries.

Approving the expansion of Sectors alone, however, will not adequately address the urgent management needs of this fishery. Rather, strong incentives are necessary to encourage widespread participation in Sectors, and must be implemented in coordination with much-needed changes across the entire fleet. Toward that end, we support far-reaching improvements to the monitoring and accountability of all vessels, regardless of whether they join a Sector or remain in the Common Pool.

Specifically, it is crucial that the Council approve the following measures for all components of the fishery, both Common Pool and Sector Allocation:

- Scientifically-based and strictly enforced total allowable catch limits;
- Comprehensive and equitable monitoring program to facilitate the precise and accurate calculation of total catch (both landings and discards); and
- Streamlined and modernized reporting protocols.

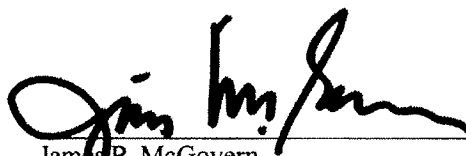
The actions of the Council at its June meeting will constitute one of the most important watersheds in the history of fisheries management in our region. We urge NMFS and the Council to take bold action in protecting the fishery resources that have played such a prominent and positive role in the economy, culture and history of New England.

Thank you for your very careful consideration of these recommendations and for your continued efforts to preserve our fisheries through progressive management.


Sincerely,



Bill Delahunt
Member of Congress



James P. McGovern
Member of Congress



Paul W. Hodes
Member of Congress



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400

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(617)626-1520

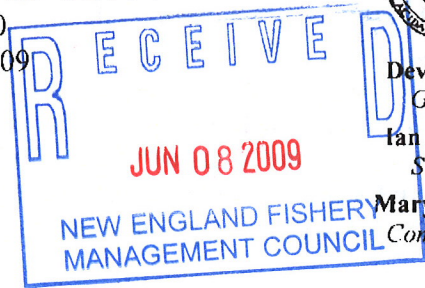
fax (617)626-1509



Deval Patrick
Governor

Ian A. Bowles
Secretary

Mary B. Griffin
Commissioner



June 8, 2009

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

RE: Comments on Groundfish Amendment 16

Dear Ms. ^{Pat}Kurkul:

The Division of Marine Fisheries offers the following supportive comments to the New England Fishery Management Council on Amendment 16 – the transition amendment to some type of future catch share system. We understand comments are to be addressed to you to be packaged and then forwarded to the Council.

We urge a quick shift to planning for Amendment 17 with reference to work completed elsewhere, especially by other councils, thereby helping us avoid predictable problems during the years between Amendment 16 implementation and Amendment 17. In particular, we must avail ourselves of the experience and expertise of the North Pacific Fishery Management Council that has made numerous amendments to its halibut and sablefish IFQ (1995) program with its process for initial allocation of quota shares, assignment of shares to vessel categories, share transfer provisions, use and ownership provisions, quota share blocks to further guard against excessive consolidation, the annual process for allocating quota shares, and the establishment of Community Development Quotas. Of particular interest to us are the North Pacific Council's restrictions on transfer and ownership designed to maintain the owner/operator characteristics of the fleet and to prevent consolidation of quota shares in the hands of a few participants.

Further highlighting the need for careful catch share-planning is the North Pacific Council's March 2008 "Current Issues" provided at the Council Coordinating Committee May meeting in Boston. Under the category of limited access privileges, the North Pacific Council describes the American Fisheries Act Pollock Cooperatives, Bering Sea/Aleutian Islands Crab Rationalization, a Central Gulf of Alaska Rockfish Pilot Program, Amendment 80 Cooperatives, and a Community Development Quota Program.

We can learn from those programs just as we continue to benefit from highly touted British Columbia individual transferable quota (ITQ) experiences.

A catch share plan for groundfish is a preferred outcome of the National Marine Fisheries Service (NMFS) and Massachusetts Division of Marine Fisheries (MADMF).

Amendment 16 is, in a sense, the “allocation” amendment giving fishermen a first look at their federally-specified groundfish catch histories and potential catch shares. We suspect fishermen will use their catch histories and the Amendment 16 sector allocation approach as a way to judge the desirability of a future catch share program. Amendment 16 is unique in this approach, allowing fishermen to use their sector and “common pool” experiences as a way to assess whether individual catch shares are a better future alternative for them. Affording such a personal choice is bound to stretch the administrative abilities of government bureaus that must monitor and enforce fishing activity.

Neither the Council nor NMFS can estimate the impacts of commercial fishery measures since neither knows the number or identity of vessels that will join sectors and be subject to hard total allowable catches (TACs). Amendment 16 indicates the Council’s suspicion that a substantial portion of the fishery will remain subject to effort controls, either by choice or because they are unable to join a voluntary sector. Uncertainty about sector participation has prevented the Council from analyzing the biological, economic, and social impacts of the proposed management measures and their alternatives. This unknown will weaken the effectiveness of management measures, causing them to be too stringent or not stringent enough (DEIS page I-430).

At the hearing in Massachusetts one sector proponent and leader acknowledged that without fishermen knowing their potential sector contributions (PSCs) and with annual catch limits (ACLs) for the next fishing year being unknown, he feared fishermen would opt to remain in the common pool. He indicated fishermen might have no choice especially if cost to join a sector remains as high as indicated by the council and 100% observer coverage is required (\$13,500-17,700/vessel annually). The DEIS indicates sector formation and operating costs are likely to be at least \$60,000-150,000/sector but probably more (I-539).

In addition to it being the allocation amendment, we are getting the sense that many industry members consider Amendment 16 to be the “rationalization” amendment. The smallest and largest operations because of low allocation and high operating costs, respectively, presumably face the greatest risk of exiting the fishery. At the Gulf of Maine Research Institute (GMRI) informational meetings on Amendment 16 numerous fishermen commented they will be put out of business because the anticipated observer costs represented their net profit for the year. We don’t believe the Amendment addresses this issue especially in the context of the Council objective: “prevent excessive consolidation that would eliminate the day boat fishery.” This potential and important impact should be analyzed to include impacts on fishing communities.

Reduced fishing capacity may be necessary to calibrate with current fishing targets; however a coherent planned approach to consolidate the fishery, perhaps steered by a well crafted buy-out program that takes into account the present and future needs of fishing communities, would have been preferable.

Regardless of all the acknowledged Amendment uncertainties and imperfections, the Massachusetts Division of Marine Fisheries stands fast in its support of a transition from input to output controls by indicating our preferences to the Council's initiative and providing justification for those selections. They are as follows:

Sector Definition/Formation of a Sector (§4.3.3.1, I-93 & 94)

MADMF supports the Council's revised definition of a sector. We would add that sectors are socio-economic units with ties to a regional fishing community. Sectors can be identified in a variety of ways. Some are distinguished by the gear they use, such as a seine sector and a gillnet sector that share the catch. Sometimes sectors are identified by where they fish, such as an inshore sector and an offshore sector. Others are distinguished by their purpose in fishing, such as the commercial or recreational.

Preparation of a Sector Formation Proposal and Operations Plan (§4.3.3.2; I-94 & 95)

We support Option 2 – Additional Requirements. This option requires that an operations plan must also include (in addition to Amendment 13 requirements) information enabling the Council to better evaluate the impacts of a sector through more details on reporting and monitoring and participation in other fisheries. Because the Council's goals include "giving industry greater control over its fate and providing a mechanism for economics to shape the fleet rather than regulations," these additional requirements are reasonable, appropriate, and necessary even if somewhat burdensome to sectors.

We recommend each sector's plan of operations be submitted to the Council for its review and approval. Currently only the Regional Administrator approves/disapproves operations plans. Council members, including state fishery officials, are divorced from the decision-making process and only have an opportunity to comment. Considering the number of sectors, their geographical distribution, fishing patterns and likely impact on state fishery management approaches and objectives, operations plan approval should be by the council thereby incorporating state as well as federal critiques.

International experience shows that the holders of fishing rights, under suitable institutional conditions, can safely be given wide responsibility for self-managing, but some responsibilities must remain governmental. It remains critical for (state and federal) government to establish a clear and comprehensive framework of policy and administration within which fishermen can conduct their affairs efficiently and with certainty. Additionally, it remains government's responsibility to protect the broad public interest in the face of harvesting and management of fishery resources by those having a primary interest in the catch. The governmental task – both state and federal - to articulate and enforce the public's long-term conservation objectives and standards will require its extensive review and approval of all sector plans.

This review would obligate the Council to monitor sector performance relative to Council goals (I-93) including: "prevent excessive consolidation that would eliminate the day boat fishery." The Commonwealth cannot relegate its responsibilities to NMFS and sector managers and recommends that the Council not do so.

The text on page I-96 should be revised in a few places especially where it reads: “NMFS may consult with the Council and will solicit public comment...” This must be joint exercise considering the import of the operations plans and their implications.

We support Option 2 for confirmation of permit history permits that would not require such permits to be activated in order to be associated with and/or join a sector.

Allocation of Resources (§4.3.3.3; I-96 & 97)

Further explanation must be provided as to why removing the 20% cap on TAC shares established in Amendment 13 is justified (“Revised Allocation of Resource Guidance”). We appreciate that shares will be calculated based on the history of each permit that joins a sector in a given year. We understand that sector managers could have a difficult time juggling sector membership so as not to exceed a cap. Nevertheless, removing the cap does not improve the Council’s ability to achieve its objective to “allow economics to shape the fleet rather than regulations.” In fact, this proposal suggests the Council doesn’t really have an objective for the “fleet.” We recommend expanding this objective to articulate how we want the fleet shaped when we delve into catch shares and we reflect on other councils’ catch share experiences. We understand that there must be a clear specification of each sector’s share of the catch, but it’s not clear why there is consideration to remove the 20% cap.

Guidance on Sector Overages (§4.3.3.3.2; I-97 & 98)

We support Option 2: “For stocks that are managed under the terms of the US/CA Resource Management Understanding, sectors will be provided a specific annual catch entitlement (ACE) for those stocks that have a TAC that is specific to the Eastern US/CA area.”

We also suggest that should the Eastern US/CA area be closed to limit catches of Georges Bank (GB) yellowtail flounder by common pool vessels, sectors should be exempted from that closure as long as they have ACE remaining for the stocks in that area. Current language indicates sectors “could request” an exemption, but we view filing such a request to be purposeless and review and approval procedures will be both costly and untimely.

Sector Baseline Calculations/Potential Sector Contributions (§4.3.3.3.4; I-99-102)

This is the sector policy decision that will have the most far-reaching consequences for the groundfish fishery and future Council decisions on catch-share approaches even though the Council clearly and emphatically indicates: “The Council may choose a different allocation approach for this fishery in the future. The Council cannot guarantee decisions made by a future Council will use these same formulas.” Considering how long it will take to develop the next Amendment, we suspect everyone understands the method for determining permit history will be in effect for 3-4 years at least, and everyone must live with the consequences. Fishermen sign over their history (PSC) to a sector, and they don’t necessarily retain that history and resulting catch when fishing within a sector. We expect considerable intra-sector conflict to occur during initial years of transition to this approach; accordingly, we urge the Council to heed our earlier recommendations on additional requirements for sector operations plans and Council direct involvement in review and approval of operations plans.

We support Option 2: 50% Landings History and 50% Vessel Baseline Capacity for Landed Stocks FY 1996-2006.

Rationale:

- (1) The Amendment correctly notes that some permit holders invested heavily in additional permits with allocated DAS but little to no landings history. Therefore, PSC options relying solely on landings history will devalue fishermen's investments. Some fishermen claim they mortgaged their houses to buy other vessels with DAS; therefore, they insist that to change the "currency" at this point will bankrupt them, and they will lose their homes.
- (2) Option 1 (Landings History Only FY 1996-2006), although seemingly attractive especially to highliners, will hinder sector formation because many fishermen likely will have little PSC to bring to the table. Their PSC share of other stocks will not be of value to sectors, and they will be forced to remain in the common pool.
- (3) Option 1 will penalize many fishermen whose landings for groundfish over all or a portion of those 10 years were lower (perhaps far lower) than they otherwise would have been due to regulations (e.g., rolling closures). Small vessels especially will be affected. Some fishermen have insisted they will be "finished" if Option 1 is selected.
- (4) Gulf of Maine (GOM) haddock abundance continues to increase and haddock is reappearing inshore. We must avoid denying haddock to inshore sector fishermen whose catch histories will be low (haddock were unavailable in previous years), while common pool vessels and sectors with larger, more offshore vessels and significant haddock catch histories, catch and land large trips of haddock.
- (5) With Option 1 fishermen with the highest landings and greatest impact on groundfish during many years of overfishing will benefit from their history and capture a large portion of future ACLs as ACLs increase with stock rebuilding. A vessel's percent shares of groundfish stocks will translate into higher catches, perhaps higher than those vessels' past catches.
- (6) While the "cap and trade" attributes of sector management are enticing, we recommend avoiding giving fishermen with no catch history in an area (or for a stock) history. In other words, Options 3 and 4 should not be considered. For example, in Table 16 (Public Hearing Document) an "imaginary" vessel (45 feet, 350 hp, 43 DAS) that fished the GOM stock area only and having no history of GB winter flounder, yellowtail flounder or haddock, will receive substantial allocations of those stocks with Options 3 and 4. Similarly, a vessel (55 feet, 400 hp, and 25 DAS) that fished the SNE/MA area only and having no history of GOM cod, haddock, winter flounder and yellowtail flounder will receive substantial allocations of those stocks. This new and untried dynamic will create tremendous uncertainty for a sector (especially one relying on GOM stocks) that will have to somehow "get back" PSC allocated to other sectors with members having little if any history justifying that PSC. Worsening the situation for that sector with diminished initial PSCs for stocks in their area, will be new fishermen relocating to that sector's stock area to take advantage of redistributed quota and new fishing opportunities afford by the PSC option (i.e., Options 3 and 4).
- (7) We appreciate that Option 2 creates the potential for resulting sector TACs to cause landings to differ from recent landings patterns and will redistribute fishing effort among the groundfish fishery. Nevertheless, with Option 1 being undesirable primarily due to its impact on smaller, inshore vessels, and with

Options 3 and 4 allocating PSC of all stocks to all vessels regardless of an individual vessel's history of landing a particular stock, Option 2 must be our preference. We do not believe impacts to the sectors will be mitigated by ACE trading and other measures (page I-455).

Existing Sector Allocations (§4.3.3.3.4; I-102)

We support a continuation of Georges Bank cod Hook and Fixed Gear Sector allocations being based on the period FY 1996-2001. Allocations of other stock should be based on Option 2.

Mortality/Conservation Controls for Sectors (§4.3.3.4; I-103)

We support Option 1 (revisions to mortality/conservation controls) with the following change: Each sector will be required to submit an Operations Plan for review and approval by the Council and NMFS.

With the lifting of trip limits for GOM cod, sectors will be free to develop their own approaches for catching cod to maximize economic benefits to their members. Apart from MADMF's stance on protecting GOM cod in state waters evidenced through our December-January Cod Conservation Zone (CCZ) off Boston and our recently established Spring CCZ south of Gloucester, we foresee that little will be done to address concerns about fishing effort on cod aggregations that once found can be targeted, dispersed, and significantly diminished.

Notwithstanding Council hopes for sector-promoted stewardship with its attendant conservation philosophy, we have little reason to believe that GOM cod spawning protection will be addressed by sectors on their own especially if competing sectors cannot agree on how to manage their GOM cod ACEs in a cooperative manner.

Monitoring and Enforcement (§4.3.3.5.3; I-105)

We support the revised monitoring and enforcement provisions (§4.3.3.5.2). In particular, we support both Enforcement Options 2 (joint liability) and 3 (deduction of overages) that do not appear to be mutually exclusive. Regarding the enforcement of and compliance with sector operations plans, we have serious concerns about potential conflicts of interest. It seems clear that weighmasters, sector managers, and sector participants would be the principals working together to enforce sector rules. We see a lack of independent and verifiable oversight to validate performance. Consider that under current enforcement practices, a permit holder who violates a state or federal fishery regulation could be subject to severe penalties, including substantial financial sanction, loss of permit, property or incarceration. Yet, violations still do occur on a regular basis. Without conventional state and federal law enforcement that appears to be minimized in sector management, there will be insufficient incentives for sector compliance. Self-enforcing sectors recording their own catches and working with very low catch entitlements inadequate to meet sector socioeconomic needs provide incentives for non-compliance. Conventional law enforcement must have a major role.

Sector Monitoring Requirements (§4.3.3.5.4; I-106)

We suggest NMFS not wait until the end of the fishing year to evaluate landings, i.e., to "assure that sector landings do not exceed the sector allocation." Timely evaluations are necessary and prudent. NMFS will receive sector reports on a weekly basis (catch and

discards) as part of the list of requirements for monitoring, reporting, and enforcement within a sector (five bullets on pages I-106 & 107); therefore, periodic and frequent evaluations should be possible and will be appreciated.

Not waiting until the end of the year is vital especially since industry-funded observers and electronic monitoring to verify area fished, catch, and discards by species and gear type will not be required until May 1, 2012 –two years of reliance on the current NMFS Observer Program. As we all fully appreciate, we must focus on catch and not just landings.

We are considering how we might assist NMFS with these evaluations and anticipate further discussions with NMFS on this issue.

Dockside monitoring (I-107)

We support Option 2 for dockside monitoring (100% dockside monitoring required beginning May 1, 2010). The Amendment states that a dockside monitoring program is needed to verify landings of a vessel at the time it is weighed by a dealer and to certify that landing weights are accurate as reported on the dealer report. We agree with the Council's rationale (I-109).

We appreciate that sectors will “be responsible for the development of and costs associated with a program...” (I-107), and sectors may find it difficult to get such a system in place for May 1, 2010, but nevertheless, (100%) accountability of sector landings is integral to the success of this cap and trade program. We believe part of the expense of monitoring programs is also the responsibility of government. Accordingly, NMFS should be prepared to subsidize some portion of these costs in addition to providing oversight.

Sectors must also have in their operations plans all details of the monitoring system, and service providers must be available, selected, and ready to meet Amendment 16 standards for monitoring and reporting (I-109). NMFS should advise the Council as to whether the May 2010 deadline is feasible. We recommend delaying implementation of those sectors not prepared to immediately meet the reporting requirements.

At-sea sampling: Electronic monitoring will be helpful, but only for some gear types. *Therefore, we support Option 1: Less than 100% electronic monitoring and at-sea observation will be required. We presume this means 100% at-sea observation.*

By knowing that 100% at-sea observation will be required, everyone is put on notice that the Council and NMFS are insistent on accurate records of catch and catch location. Without that information assessments will suffer dramatically and scientific uncertainty will worsen. If that occurs, future ABCs provided by the SSC will be lowered. Experience with catch-share programs in other regions show that participants may eventually call for 100% monitoring to secure confidence in fishery-wide catch.

Amendment 16 indicates operations plans must provide other critical details. Specifically, plans must provide details of an “adequate [at-sea] monitoring system and demonstrate to NMFS that discards can be accurately monitored and counted as part of ACE, at the

sector's expense, by FY 2012." Until then, discards will be counted at the previous assumed discard rate. We highlight two problems that must be addressed.

First, Amendment 16 assumes sectors will implement an at-sea observer program earlier than year 3 of the sector's operation (must be in place by year 3) if they believe their discard rates are lower than the assumed discard rate used to set their ACE(s) (Table 160). However, there would be reduced incentive for these fishermen to want at-sea observers they would have to fund if their Amendment 16-generated discarding rates are higher than shown in Table 160.

Fishermen will prevent themselves (their sector) from being closed down when a low ACE is taken. Amendment 16 is clear on this issue: "...as they [sectors] approach an ACE that could result in stopping fishing, discard rates might increase above those used in the estimated rate..." (I-457).

Secondly, even when a full-blown at-sea observer program is established by a sector, NMFS will require no more coverage than that needed to allow an estimate of discard with a coefficient of variation of 30% - the Standardized Bycatch Reporting Methodology (SBRM) Amendment standard. We, and others, previously have noted that a 30% CV could result in a relatively low number of trips being observed.

The Amendment notes our concern and makes another very salient point: "One concern is that sector participants may alter behavior when an observer is on board. As a result, a CV standard may be met but discard estimates may be biased. Setting a particular CV standard does not resolve this issue; the only real solution is to require higher levels of observer coverage to reduce the effect of this behavior on catch estimates." Unfortunately, the Plan offers an unsatisfying solution: "...Should a higher standard be deemed necessary for a particular sector or all sectors it can be easily implemented through the review of the sector Operation Plan by NMFS."

It makes little sense for the Council to embark on TAC management with ACLs, sub-ACLs, and ACEs for sectors without immediately appreciating that most sector vessels will be unobserved at-sea until sometime in 2012. Potentially, the Council will have unobserved sectors for up to three years (May 1, 2010 through April 30, 2013). Consequences may be dire for the Council, i.e., estimates of actual catches will be unknown; stocks assessments will suffer with resulting increased uncertainties; mortality will rise and further cuts will be required to rebuild to targets. Any one of these potential consequences could cause New England's sector experiment to fail with consequent adverse impact on resources.

Amendment 16 "soft-sells" the need for at-sea observers with the 3-year wait for that requirement unless a sector wants to implement an observer program earlier; the Amendment fails to aggressively address the prospect of a return to 1970s/80s-like conditions when management by hard TACs failed because the Council and NMFS were unable to handle rampant discarding of fish. Fishermen's behavior was dramatically altered and discarding became a necessity for fishermen to avoid long closures. That history of TAC management was based just on quotas for cod, haddock, and yellowtail.

We refer you to Dr. David Pierce's 1982 report written for the Council: "Development and evolution of fishery management plans for cod, haddock, and yellowtail flounder." We also refer you to the 2008 text, "An Enormous Immensely Complicated Intervention," written by the Council's first Executive Director and later Council member, Spencer Apollonio, and Council member Jacob Dykstra. These authors reflect on the first 10 years of Council groundfish management, and they offer the opinion that current fisheries management approaches are still increasing incentives and opportunities for non-compliance.

We suspect that without an effective and timely at-sea observer program for sectors it will be "fish and pitch" for the entire suite of multispecies, thereby rendering Amendment 16 no different than prior plans for TAC management with regard to creating incentives to discard what cannot be kept.

It also will be "fish and dish [off]". Consider the following scenario without at-sea observers. An unobserved sector vessel catches too many yellowtail flounder and realizes that his catch could close the sector's fishing operation because his yellowtail catch will exceed the sector's ACE. He knows his sector could trade for more ACE, but why bother? Done with prior arrangement and agreement in expectation of such a problem, he pulls alongside a cooperative common pool vessel, or state-only permitted vessel (no federal permit) and illegally transfers his yellowtail at-sea. Perhaps he owns the state-only permitted vessel himself so he passes off the yellowtail to "himself."

We are relying on our past experiences and that of other fishery managers elsewhere. For example, we recently had occasion to visit British Columbia on an EDF-sponsored trip. It was very worthwhile, and one take-home message was that 100% monitoring was an absolute necessity. For all the above stated reasons, we believe that coincident with enforcement of hard TACs it would be most prudent not to allow any commercial fishing activity (sector or otherwise) to be conducted without 100% monitoring.

We request the Council address our concerns in the Amendment that is almost silent on compliance for sectors regarding landing all legal-sized fish allocated to the sector; accurately attributing all landings to specific statistical areas; and reporting accurate amounts of discards, i.e., not exceeding sector ACEs (I-106). It is insufficient to conclude that these major issues pertinent for effective sector management can wait for three years.

Following the above logic and concerns, we cannot support Option 1 as to how "discard rates used before sectors develop adequate monitoring systems will be determined" (I-108). However, we can support Option 2 provided an industry-funded monitoring program is implemented no later than the end of FY 2010, and 100% coverage of trips is required.

Relying on a 30% CV to determine sampling coverage will be a major mistake. We consider our position one of compromise. We appreciate that May 1, 2010 is only 11 months away. A one-year delay is troublesome, but may be realistic especially for most sectors that at this time don't even have their memberships established. Not knowing who's in and out of sectors at this late date, suggests factors beyond sector managers' control have frustrated their ability to plan and prepare for Amendment 16. That frustration was obvious at the Wakefield public hearing.

Sector Annual Reports (§4.3.3.6; I-113)

We support Option 1 (annual reports required) except that we would prefer sector reports to include harvest levels of other species and catch locations. With that record the Council will be able to better evaluate sector performance relative to Council objectives for sectors. We also suggest the report detail any ACE transfer and conditions for that transfer, i.e., cost, swaps, etc. Some might suggest the Council and NMFS need not know those details. We disagree.

In particular, we disagree with Amendment 16's claim that the exchange of ACE is a "private business arrangement" (I-113). Sectors benefit from a public resource. They have not been granted any ownership. Sector management is not management by catch share auctioned off, sold, or leased to any entity.

We are in the planning stages for an eventual shift to some sort of catch share system; therefore, the Council and NMFS must understand all the dynamics and nuances of sector management. Consequently, the Council should be made aware of all details of sector operations including ACE transfers

Transfer of Annual Catch Entitlements (ACE) (§4.3.3.7; I-113)

We support Option 2 (Allow ACE transfer between fishing years and between sectors). The concept is attractive and will foster greater communication and cooperation between sectors. See above comments on Annual Reports.

We support carrying 10% of unused ACE forward into the next fishing year. Additionally, we support holding in reserve 20% of each sector's ACE allocation for each stock until 61 days after the beginning of the fishing year. This approach seems to give sectors more flexibility and the ability to deal with unanticipated events. It also should prevent a sector from having to modify rules to catch every allocation given it in any year.

Sector Participation in Special Management Programs (§4.3.3.8; I-114-116)

We support the participation as described in this section.

Interaction of Sector with Common Pool Vessels (§4.3.3.9; I-116-118)

We seek one clarification. In Option 1 – Revised Section it states: "...If stock conditions improve, and a sector stays within its quota while other sectors do not, the sector will receive a temporary increase in share equal to the amount that other sectors exceeded their quota." The logic for this "temporary increase in share" is not obvious. The linkage between one sector exceeding its ACE and other sectors benefiting is difficult to understand, especially when you consider that sectors can be managed by the same entity and membership may involve common ownership.

We disagree that only NMFS can approve exemptions and/or modifications to other management measures in a sector operations plan. That responsibility should be shared with the Council, and in that way state involvement is assured.

Regarding sector exemptions, we offer strong words of caution. Since sectors will be exempt from trip limits, they may or may not have limits depending upon the sector

management approach. Limits may change within the year. Consequently, up and down the coast vessels will be landing in the Commonwealth and elsewhere, different amounts of groundfish. These self-imposed sector limits will require MADMF to modify our landing/possession limits accordingly. Involvement in the approval process may lessen the administrative burden and improve enforcement of state landing/possession limits.

Moreover, we may disagree with sector strategies for taking their ACE, and we may not support unlimited or high amounts of landings of some stocks especially during spawning periods when those stocks are aggregated and very vulnerable.

We may want to allow sectors the opportunity to fish during some or all GOM rolling closures subject to restrictions we would want to see in the operations plan(s). Amendment 16 as proposed indicates no exemption from those closures will be permissible. The Amendment needs a better explanation as to why this type of exemption will not be allowed. From public hearing comments and our discussions with fishermen intending to become part of sectors, exemptions from the rolling closures are one of the primary reasons for their interest in sectors.

We do note, however, that the Amendment provides a mixed message. On page I-188 it states: "...sectors will be required to adhere to the GOM rolling closures (unless a specific exemption is granted when the sector's operation plan is approved)." The Council intent should be clarified, and if rolling closure exemptions will be considered and allowed, MADMF must be included in that review and approval.

Movement Between Sectors (§4.3.3.10; I-118)

We recommend the Amendment provide a deadline for a "code of conduct" if the Council intends to allow the industry to develop that code for Council approval. Our preference is for the Council to develop the code with industry input.

The Amendment indicates the Council wants self-selecting sectors to self-govern thereby reducing the need for Council-mandated measures (I-93). We fear the Council is indicating it wishes to relinquish its groundfish fisheries management responsibility. Deregulation and devolution of authority to NMFS and to the industry through Council hands-off sector management is unwise; since we are moving towards catch-share management, more Council involvement will be needed, not less. We recommend the Council immediately begin to develop a code of conduct with industry input.

Reporting Requirements (§4.3.4; I-118)

We support Option 2 although area-specific reporting requirements will be very difficult to administer and enforce. We understand the need for this requirement, i.e., ACLs and additional sectors increase the importance for timely reporting of catch by stock area.

Stock by stock ACLs and accountability measures require boundaries. We note that the proposed reporting areas for daily VMS catch reports (I-121) will be challenging to administer. For example, a vessel fishing in the Great South Channel will be fishing in close proximity to three boundary lines that straddle important fishing grounds. We have a "donut hole" (inshore Georges Bank) surrounded by a ring of other areas (SNE/MA, Georges Bank, and the Gulf of Maine). If we fail to collect accurate catch reports by reporting area, ACLs will not be monitored properly, and stock assessments will suffer.

We fear there will be great incentives for fishermen to misreport as they see ACLs being approached and threats of closures materialize. The solution is 100% monitoring.

Note that Option 3: Accounting for discards for non-sector vessels (I-122) seems misplaced. Nevertheless, we completely agree that discards for non-sector vessels must be tracked; otherwise, future allocations based on catch “may be complicated.” Unfortunately, neither sub-options 1 and 2 will provide accurate estimates of discards. Common pool measures will create trimester fishing derbies and promote extensive discarding.

Common pool vessels’ self-reporting of discards won’t be reliable, even though VMS daily submissions of discards will be required. Therefore, our best source of discard information will be from observer data from the previous year (Option 2). Option 1 would rely on discard information from the most recent assessment. It’s better to use the previous year rather than assessment data potentially from a few years in the past. Timely information will be critical for even moderately successful hard TAC management we likely will have for the common pool through accountability measures.

Allocation of Groundfish to Commercial and Recreational Fisheries (§4.3.5; I-122)

We support preferred alternative Option 2 (4.3.5.2). However, the choice between allocation years and percentages is made very difficult because, as the Council acknowledges, only an economic qualitative assessment of impact of the allocation years can be provided.

Therefore, we’re left with reference to “recreational measures to reduce mortality” (I-636), and we conclude that 2001-2006 should be used to determine recreational and commercial allocations (preliminary) for GOM cod (33.7%) and haddock (27.5%) shown in Table 16 (I-123).

Choosing the other allocation option (1996-2006), the Council would be obliged to reduce recreational mortality for GOM cod by 27% and for GOM haddock by 18% (Table 20; I-151). With 2001-2006 the minimum size for GOM haddock will be reduced to 18;” there will be no change to the GOM cod season, bag, or size limit.

Changes to DAS Transfer and DAS Leasing Programs (§4.3.6; I-124)

We support: (1) Option 2A: No adjustments will be made for permits previously charged the conservation tax; (2) Option 3: DAS Leasing Program Conservation Tax; and (3) Option 4: DAS Transfer Program Conservation Tax Exemption Window.

Our views on consolidation were expressed in an October 2007 memorandum to the Groundfish Committee. Council proposals are consistent with those views.

Special Management Programs (§4.3.7; I-125)

The number of Category B days will increase because the Council simply changes the A:B DAS ratio. Consequently, increased importance must be given to the incidental catch TACs for vessels fishing on B DAS.

Impacts of this increased B DAS pool are unsatisfactorily addressed in §6.4.3.6.1 (I-531). No analyses are presented. For example, we don’t really know how many B DAS are

projected to be unusable due to size of incidental TACs that likely will be based on stock ACLs.

Table 17 (I-126) strikes at the heart of this issue and our concern. Incidental catch TACs for 2009-2012 are unknown. As the Amendment indicates: "Values [11 stocks] are dependent on ACLs which have not yet been determined."

Further complicating matters is the fact that incidental catch TACs will be based on non-sector vessels' shares of ACLs. We do not know what and how many vessels will be in the common pool; therefore, we have no way of assessing the impact of this option.

Measures to Meet Mortality Objectives (§4.4; I-133)

Option 2A for non-sector vessels (§4.4.2.2; I-138) is quite a departure from the "no action" alternative. It has a patchwork of differential DAS areas (Figures 4 and 5). With this option the inshore GOM increases to 2¼ :1. Adjacent GOM becomes 1¼ :1. Georges Bank abutting the eastern shore of Cape Cod, as well as the GOM and SNE/MA, is 2¼ :1. SNE/MA is 3:1. Farther offshore and to the east, the southern part of Georges Bank is 1:1.

Relying on the Closed Area Model (CAM) to determine DAS currency and other options, the Council continues to use an analytical approach with serious limitations. As noted in the Amendment (I-431), the CAM "should not be interpreted as a precise calculation of future fishing mortality...the model may not capture the exact response of fishermen to the regulations and as a result may over or under estimate the realized impacts...As management measures become increasingly complex, it becomes more difficult to adapt the model to capture the interactions between measures, and the model results become more uncertain..."

CAM uncertainty must be quite significant given the complexity of this management system. More explanation regarding the implications of those uncertainties and limitations would be useful especially in the context of what the Council should expect with a 3:1 count in the SNE/MA and 2¼ :1 count in the inshore GOM. We are not sure, but it seems that the CAM predicts that limited access vessels will not shift their effort to the inshore GOM from SNE/MA to take advantage of more days of fishing and the higher cod limit (current 800 lbs./DAS with maximum of 4,000 lbs./trip increasing to 2,000 lbs./DAS with maximum 12,000/trip). A 4-fold increase in the per DAS limit and a tripling of the trip maximum limit would seem to draw effort to inshore GOM. The yellowtail flounder limits also increase in the GOM over status quo. If the CAM predicts an effort shift will not occur, that prediction must be challenged.

The "analysis" of this option described on pages I-476-479 focusing on windowpane and SNE/MA winter flounder states a GOM cod reduction in exploitation of 22% (Table 164) is presumed to result from the increased trip limit "which should reduce regulatory discards." This "one-sentence" logic is not supported by any obvious analysis. It appears to be supposition similar to that presented for CC/GOM yellowtail flounder. This logic also is used to justify removing current limits for Georges Bank winter and yellowtail flounders and white hake. The issue of allowing landings to reduce regulatory discards is key for Council understanding of how best to address National Standards.

Regarding achieving exploitation targets, we highlight the tremendous loss in optimum yields with Option 2A (Table 164). Haddock yield is lost, almost completely, especially for Georges Bank haddock. Significant amounts of yield are lost for Georges Bank and GOM winter flounder, plaice, white hake, and redfish. More yield than necessary is lost for all yellowtail flounder stocks. Only for pollock, witch flounder, and SNE/MA winter flounder do the measures not go far enough. However, considering (1) the relatively small differences between “needed difference” and “% difference achieved” with the option, and (2) CAM limitations, we can just as easily conclude the option will achieve the required reductions in exploitation for these three stocks.

We conclude Option 2A should be rejected because CAM results are suspect (e.g., effort shift to GOM likely) and far too much allowable and desirable yield is lost to the fishery.

Option 3A eliminates the differential DAS count area, reduces the A DAS by 50% from the FW 42 allocation (i.e., another 32% decrease beyond the 18% cut of Option 2A and the Final Interim Rule), and counts all DAS allocations in 24-hr increments (e.g., 6 hrs. counted as 1 DAS and 25 hrs. as 2 days, etc), and implements two restricted-gear areas. In effect, this option applies a 2:1 DAS count everywhere and prevents vessels from breaking their days into minutes to extend and stretch their days of fishing and their landings. With DAS leasing being so prevalent, with the DAS leasing cap being removed from vessels (Final Interim Rule), and with GOM cod and yellowtail limits being increased through this option, *we conclude Option 3A has merit, and we support it.*

We still are concerned about the projected loss in yield (e.g., Georges Bank haddock) (Table 165). Nevertheless, this option affords greater conservation for MADMF’s species of special concern, GOM cod, and appears to reduce the chance for common pool accountability measures to be triggered, such as imposition of hard TACs. This approach also may motivate more fishermen to join sectors and make the concept work as best it can.

Option 4 reduces A DAS by 40% from FW 42 allocations. It does not count DAS allocations in 24-hr increments. It includes gear-restricted areas. Only specific gear can be used in southern New England when fishermen fish on a DAS.

Although appealing, this option’s gear restricted area is too extensive. For example, it includes all fishing grounds between the Southern New England Closed Area and Closed Area I. If all the gear options work as anticipated, all yellowtail and winter flounder in the SNE/MA gear-restricted area will be lost. Although we appreciate the “needed difference” in exploitation for SNE/MA winter flounder being 100%, the yellowtail flounder “needed difference” is 39%. Option 4 supposedly will result in a 45% decrease, but that estimate appears too low if nets work as designed. We suspect the decrease will be far greater, and unnecessary.

We suspect this prohibition in combination with the higher limit for GOM cod and yellowtail will motivate fishermen to shift to the Gulf of Maine where those gear restrictions will not exist or to the north of Closed Area I. This would be an undesirable shift in effort.

SNE/MA Small-Mesh Fisheries Gear Requirement (4.4.2.5; I-146)

We support this option. Discards of SNE/MA winter flounder appear to be very significant in small-mesh trawl fisheries. This discarding is especially pronounced off southern Long Island and in Block and Rhode Island Sounds (Figure 137). In the interest of reducing winter flounder fishing mortality and rebuilding and justifying a removal of complete possession of winter flounder throughout the SNE/MA area – a prohibition that might be effective for many years – we support this gear requirement. We agree that the concept behind the net is well documented.

Proposed changes to minimum size (4.4.4; I-)

We do not support Option 2 to increase the minimum size for Atlantic halibut given that the current measures restrict all vessels (recreational or commercial) to just a single fish.

Accountability Measures (4.4.7; I-161)

The Amendment has two alternatives for accountability measures (AMs) for commercial groundfishing vessels in the common pool. The first alternative is a “hard” TAC backstop. Most commercial fishing would cease in a stock area when it is projected that the TAC of a stock will be caught.

This alternative is simplistic and unrealistic. It will have dramatic consequences for the common pool. It will spark three derby fisheries at the beginning of each trimester TAC for each stock area (Table 21).

This alternative totally ignores the mixed stock nature of the fishery and creates a “choke” species scenario, i.e., the weak link in the chain will break the chain, and groundfishing will close in the affected stock area(s). Wholesale effort shifts will result, if vessels can shift at all. This presumes vessels don’t discard “choke” species to avoid reaching stock area TACs and past experiences in New England and worldwide give evidence that discarding will be rampant and unquantifiable. We don’t understand how this works without 100% at-sea observer coverage.

Small inshore vessels especially will be hard hit. “Backstops” will be quickly reached as landings by larger vessels accelerate. Fishermen using certain gear types will be tremendously disadvantaged. If not in sectors, fixed gear and hook fishermen might have very little time to fish before a “choke” species backstop TAC is reached. Small draggers will be disadvantaged because rolling closures will keep them inactive while TAC is being drained by larger, more mobile draggers.

This alternative is not really an accountability measure. It is a hard-quota alternative reminiscent of the early history of groundfish management from 1978-1980 – three years of management chaos that eventually convinced the Council and NMFS to switch to DAS management. We’ve come full circle 30 years later.

We support with reservations the second alternative: an accountability measure for when the ACL is exceeded. Estimating catch before the end of the fishing year, the Council can adjust measures for the start of the next fishing year. This AM should be consistent with Option 3A – our choice for the Measures to Meet Mortality Objectives. Option 3A applies a 2:1 DAS count everywhere (50% reduction in A DAS from the FW 42 allocation). All DAS allocations would be used in 24-hr. increments. We must assume

that this option, if applied successfully, will minimize the chance that ACLs will be exceeded and an AM applied.

Our logic, however, runs afoul of the Council approach to be used in this second alternative. We object to that approach that will be injurious to the common pool and is overzealous. That approach is as follows: "If an ACL for any stock is exceeded, NMFS will calculate the differential DAS rate exchange needed to prevent the ACL for the stock from being exceeded the following year. Since every ACL is evaluated, unless the mixed stock exception is invoked as discussed below, this approach means that in a given area the differential DAS rate applied will be the most onerous rate determined (our emphasis)..."

Applying the most onerous rate likely will create huge loss of available yield from stocks that have not exceeded their ACLs. One stock could spell the end. We find it ironic that the Council indicates possible use of the mixed stock exemption (MSE): "When determining any change in differential DAS counting, an analysis will be done to determine if the mixed stock exception is applicable and if so the mixed stock exception will be applied." We need a clarification. Why does the Council feel it might be applied when in comments to NMFS regarding changes to NS #1 guidelines and the exception, the Council indicated NMFS was making the exception almost impossible to apply?

Nevertheless, we agree with the Council that "our success in ending overfishing will depend in large measure on the accuracy of the ACLs rather than the choice of a specific AM" (I-515). *We indicated above that we support the second alternative but with reservations. The "onerous" aspect of this approach and the false hope offered through use of the MSE are the reasons for our reservations.*

Recreational Fishery Accountability Measures (4.4.7.2: I-169)

We support Option 1 because, if catches exceed the ACL, this option (unlike options 2 and 3) indicates that the Council (not NMFS), will determine the measures necessary to prevent exceeding the ACL. This option rightly states: "...Because of the need to coordinate recreational measures with the states (our emphasis), the Council determines the specific AMs that will be adopted and will forward that decision to NMFS." States must be part of the decision-making process similar to the current approach with fluke, scup, and black sea bass. Whether the AM involves changes in season, minimum size, or bag limits, AM determination must be a State-Council cooperative endeavor especially since groundfish recreational fisheries occur extensively in state waters.

Conclusion

We have provided our preferences for Amendment 16 alternatives. Leading up to the June Council meeting, we anticipate our giving further thought to our positions and other issues we have not covered in this letter. Further thought is needed because many of the alternatives lack analytical support/explanation making it difficult to compare alternatives.

The Council is attempting to introduce new measures affecting conservation, allocation, and privatization of fishery resources; rationalize and change the governance of the fishing industry; and implement new cap and trade, monitoring and enforcement programs. This is an impressive and aggressive agenda with consequences of these

initiatives being hard to identify. We appreciate that difficulty. Nevertheless, everyone wants some understanding of possible outcomes; none of us want to simply hope that problems will work themselves out.

Our preference would have been a stepwise approach with well-planned rationalization completed first. This would have given strong consideration to future needs of the industry and accommodated fishing communities. By taking this step first, our ability to “shape” the future of this industry would have been strengthened.

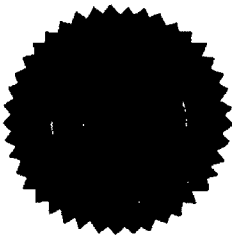
Implementation of hard TACs would have been the second step coincident with development and implementation of 100% monitoring coverage. With the latter, we would have greater confidence in catch and landings information, and more importantly, we would be better assured that conservation would not be compromised.

We have already made it quite clear that we recommend 100% monitoring. Since government fishery agencies have been in the business of collecting statistics for decades, we believe the responsibility and cost of these programs should be shared (by both government and with industry). Compliance and enforcement systems must have effective checks and balances that prevent conflicts of interests from occurring. Accordingly, we recommend government oversight of all monitoring and enforcement programs.

The third step is allocation, but we do not suggest privatization. We simply do not support the privatization of these public resources, either by law or doctrine. Property rights are central to debates about natural resource policy. Governments traditionally have been seen as the appropriate custodians of natural resources for their citizens.

More recently, many argue the privatization of property rights will ensure that users have incentives to manage their resources well. Those arguments have some merit, but we believe the only sure path to protection and sustainability of valuable public resources is by effective monitoring and enforcement programs and not *de jure* property rights.

Good and sound stewardship is a goal we all share. That goal will be achieved through effective monitoring and enforcement and involvement of state and federal governments in management. We look forward to continuing our work with the Council and NMFS.



Sincerely yours,

Paul J. Diodati
Paul J. Diodati
Director

Cc: Secretary Ian Bowles, EEA
Commissioner Mary Griffin, DFG
Executive Director Paul Howard, NEFMC
Chairman John Pappalardo, NEFMC
Massachusetts Marine Fisheries Advisory Commission

DENNIS S. DAMON, District 28, Chair
 NANCY B. SULLIVAN, District 4
 CHRISTOPHER W. RECTOR, District 22



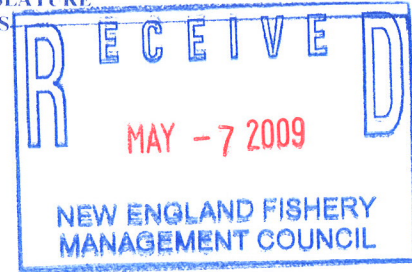
LEILA J. PERCY, Phippsburg, Chair
 HERBERT C. ADAMS, Portland
 PEGGY A. PENDLETON, Scarborough
 ROBERT N. EATON, Sullivan
 W. BRUCE MACDONALD, Boothbay
 CHARLES B. KRUGER, Thomaston
 WINDOL C. WEAVER, York
 JONATHAN B. MCKANE, Newcastle
 KERRI L. PRESCOTT, Topsham
 DIANNE TILTON, Harrington

CURTIS BENTLEY, Legislative Analyst
 VERONICA SNOW, Committee Clerk

State of Maine
 ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE
 COMMITTEE ON MARINE RESOURCES

May 5, 2009

Mr. John Pappalardo
 New England Fisheries Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950



Dear Mr. Pappalardo:

As the New England Fisheries Management Council votes on final ground fish management measures in Amendment 16 at the June meeting, we urge the NEFMC to approve the nineteen sector proposals. The Gulf of Maine ground fish fishery is a sad example of how the days-at-sea management system has failed to rebuild fish stocks and sustain fishing communities. By approving these ground fish sectors, we believe the NEFMC will have the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

We feel sectors are the best way forward in Amendment 16. Sectors offer the best opportunity to end overfishing while increasing the profitability and safety of the fishery. By limiting catch to scientifically determined catch limits and removing regulations that lead to wasteful discards and unsafe fishing practices we believe we can restore our fishery. We can take the first steps necessary in returning fishing diversity to the GOM.

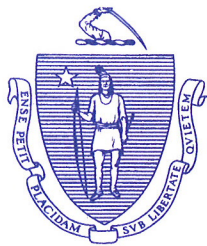
It appears the two sectors underway in New England are already showing signs of success. Over forty fishermen on Cape Cod did not contribute to overfishing on Georges Bank codfish yet were able to keep over 200,000 pounds of Georges Bank cod that would most likely have been discarded were they not operating under sector management.

We will continue to do what we can here in Maine to support the development and implementation of sectors by May 1, 2010. We call on the NEFMC to move this process forward and approve the nineteen proposals in Amendment 16.

Sincerely,

Senator Dennis S. Damon, Senate Chair
 Marine Resources Committee

Leila Jane Percy, House Chair
 Marine Resource Committee



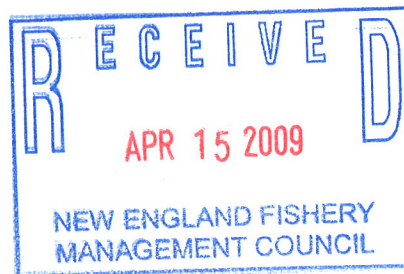
The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

FRANK I. SMIZIK
15TH NORFOLK DISTRICT
ROOM 473F, STATE HOUSE
TEL. (617) 722-2210
FAX (617) 722-2239

CHAIRMAN
Committee on:
Environment, Natural Resources and Agriculture

John Pappalardo
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



RE: Approve Sector Proposals in Amendment 16

Dear Mr. Pappalardo:

April 13, 2009

As the New England Fishery Management Council (NEFMC) prepares to vote on the final groundfish management measures in Amendment 16 at its June meeting, I write to respectfully encourage the NEFMC to approve the 19 sector proposals. As House Chair of the Committee on Climate Change, and as an active member of the Massachusetts Ocean Advisory Commission, I am concerned about the impacts of climate change and overfishing on our marine resources. The already anemic groundfish fishery is indicative of how the inefficient days-at-sea management system has failed to rebuild fish stocks and sustain fishing communities. By approving these groundfish sectors, the NEFMC has the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

Sectors are the best way to ensure that New England's fisheries remains sustainable and equitable. Sectors offer the opportunity to end overfishing while increasing the profitability and safety of the fishery by restricting catch to scientifically determined catch limits and removing regulations that lead to wasteful discards and unsafe fishing practices. Sectors also give fishermen the flexibility to improve their efficiency because they are free to determine how they can most profitably fish within those catch limits. Furthermore, the sector's share increases as the health of the resource improves, rewarding fishermen for fishing in ways that ensure the recovery and long-term health of the resource.

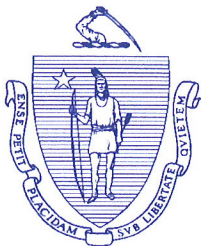
The two sectors underway in New England are already showing signs of success. Over 40 fishermen on Cape Cod are practicing more sustainable methods of fishing for cod in Georges Bank and were able to keep over 200,000 pounds of Georges Bank codfish that would most likely have been discarded were they not operating under sector management.

I appreciate the work that you have done to support sustainable fishing practices in New England and respectfully call on the NEFMC to move this process forward by approving the 19 sector proposals in Amendment 16.

Sincerely,

Frank I. Smizik
Frank I. Smizik

cc: Council, TN(4/16)



OFFICE OF THE MAJORITY WHIP
MASSACHUSETTS SENATE

STATE HOUSE, ROOM 215, BOSTON 02133

JOAN M. MENARD
MAJORITY WHIP
TEL. (617) 722-1114
FAX. (617) 722-1498



April 10, 2009

John Pappalardo
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Approve Sector Proposals in Amendment 16

Dear Mr. Pappalardo:

As the New England Fishery Management Council (NEFMC) votes on final groundfish management measures in Amendment 16 at the June meeting, we urge the NEFMC to keep its promise to industry and meet its obligations to the Magnuson-Stevens Act and rebuilding timelines by approving the 19 sector proposals. The already anemic groundfish fishery is a classic example of how the inefficient days-at-sea management system has failed to rebuild fish stocks and sustain fishing communities. By approving these groundfish sectors, the NEFMC has the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

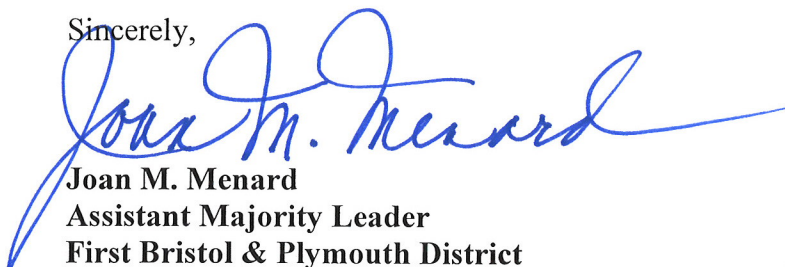
Sectors are the best way forward in Amendment 16. Sectors offer the opportunity to end overfishing while increasing the profitability and safety of the fishery by limiting catch to scientifically determined catch limits and removing regulations that lead to wasteful discards and unsafe fishing practices. Sectors also give fishermen the flexibility to improve their efficiency because they are free to determine how they can most profitably fish within those catch limits. Furthermore, the sector's share increases as the health of the resource improves, rewarding fishermen for fishing in ways that ensure the recovery and long-term health of the resource.

The two sectors underway in New England are already showing signs of success. Over 40 fishermen on Cape Cod are not contributing to overfishing of Georges Bank codfish and were able to keep over 200,000 pounds of Georges Bank codfish that would most likely have been discarded were they not operating under sector management.

cc: Council, TN (4/16)

I will continue to do my part and support the development and implementation of sectors by May 1, 2010 through the Council and other important venues. I call on the NEFMC to move this process forward and approve the 19 sector proposals in Amendment 16.

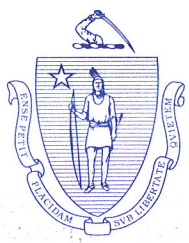
Sincerely,

A handwritten signature in blue ink that reads "Joan M. Menard". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Joan M. Menard
Assistant Majority Leader
First Bristol & Plymouth District

1912

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1053



SENATOR ROBERT A. O'LEARY
CAPE AND ISLAND DISTRICT
STATE HOUSE, ROOM 511B
TEL: (617) 722-1570
FAX: (617) 722-1271
DISTRICT OFFICE: (508) 775-0162
E-MAIL: Robert.O'Leary@state.ma.us



COMMITTEES:
EDUCATION (CHAIR)
STATE ADMINISTRATION & REGULATORY OVERSIGHT (VICE CHAIR)
LABOR & WORKFORCE DEVELOPMENT
ENVIRONMENT, NATURAL RESOURCES & AGRICULTURE
COMMUNITY DEVELOPMENT & SMALL BUSINESS
MENTAL HEALTH & SUBSTANCE ABUSE

March April 24, 2009

John Pappalardo
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Approve Sector Proposals in Amendment 16

Dear Mr. Pappalardo:

As the New England Fishery Management Council (NEFMC) votes on final groundfish management measures in Amendment 16 at the June meeting, we urge the NEFMC to keep its promise to industry and meet its obligations to the Magnuson-Stevens Act and rebuilding timelines by approving the 19 sector proposals. The already anemic groundfish fishery is a classic example of how the inefficient days-at-sea management system has failed to rebuild fish stocks and sustain fishing communities. By approving these groundfish sectors, the NEFMC has the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

Sectors are the best way forward in Amendment 16. Sectors offer the opportunity to end overfishing while increasing the profitability and safety of the fishery by limiting catch to scientifically determined catch limits and removing regulations that lead to wasteful discards and unsafe fishing practices. Sectors also give fishermen the flexibility to improve their efficiency because they are free to determine how they can most profitably fish within those catch limits. Furthermore, the sector's share increases as the health of the resource improves, rewarding fishermen for fishing in ways that ensure the recovery and long-term health of the resource.

The two sectors underway in New England are already showing signs of success. Over 40 fishermen on Cape Cod are not contributing to overfishing of Georges Bank codfish and were able to keep over 200,000 pounds of Georges Bank codfish that would most likely have been discarded were they not operating under sector management.

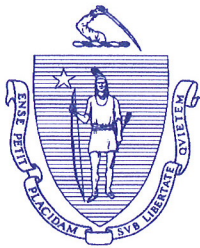
We will continue to do our part and support the development and implementation of sectors by May 1, 2010 through the Council and other important venues. We call on the NEFMC to move this process forward and approve the 19 sector proposals in Amendment 16.

Very Truly Yours,

ROBERT A. O'LEARY
STATE SENATOR
Cape & Islands District



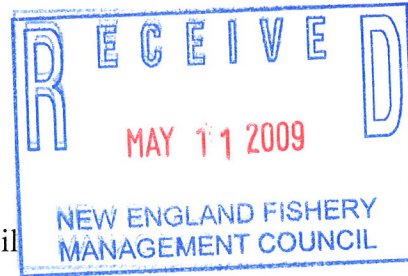
cc: Council, TN (5/18)



OFFICE OF THE PRESIDENT
MASSACHUSETTS SENATE
STATE HOUSE, BOSTON 02133-1007

THERESE MURRAY
PRESIDENT

ROOM 332
TEL. (617) 722-1500



April 27, 2009

John Pappalardo
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Mr. Pappalardo:

In June, when the New England Fishery Management Council (NEFMC) votes on final groundfish management measures in Amendment 16, it is my hope that NEFMC will approve the 19 sector proposals in an effort to rebuild our depleting groundfish stock.

The struggling groundfish fishery is a clear example of how the days-at-sea management system has been inefficient in rebuilding fish stocks and sustaining fishing communities. By approving these groundfish sectors, NEFMC has the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

The benefits of sectors are unlimited. Sectors offer the opportunity to end overfishing, increase the profitability and safety of the fishery, and provide fishermen the flexibility to determine how they can most profitably fish within catch limits. Furthermore, the sector's share increases as the health of the resource improves, rewarding fishermen for fishing in ways that ensure the recovery and long-term health of the resource.

The two sectors currently underway in New England are already showing signs of success. Over 40 fishermen on Cape Cod were able to keep over 200,000 pounds of Georges Bank codfish that would most likely have been discarded were they not operating under sector management. Clearly, sector fishing is the direction the Commonwealth's fisheries must follow.

Thank you for allowing me to express my support of sector fishing for the groundfish fishery. I applaud the efforts made by the NEFMC thus far and support the development and implementation of sectors by May 1, 2010. Please do not hesitate to contact my office, should you have any questions.

Sincerely,

THERESE MURRAY
President of the Senate

TM/jh

cc: Council, TN(5/10)

Handwritten signature in blue ink, possibly reading "John Doe".

TOWN OF SCITUATE

BOARD OF SELECTMEN



600 Chief Justice Cushing Hwy.
Scituate, Massachusetts 02066
Telephone (781) 545-8740
Fax (781) 545-8704

May 29, 2009

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

Re: Comments on Amendment 16 to the Northeast Multispecies FMP

Dear Ms. Kurkul:

The Scituate Board of Selectmen is concerned that our local fishing industry receives consideration in the development and implementation of Amendment 16 to the Northeast Multispecies Fishery Management Plan.

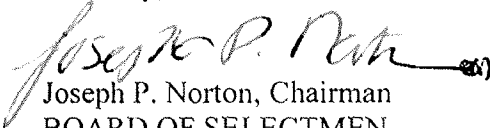
Our community is home to a small diverse fleet of family owned fishing vessels. NEFMC data reveal that Scituate is home port to 63 fishing vessels of which 18 are primarily dependent on the groundfish resource. These vessels landed large mesh groundfish species valued at \$1.2 million ex vessel in 2006. Our harbor maintains two facilities used primarily by commercial fishermen, the Scituate Town Pier and the Lucien Rousseau Memorial Landing.

Scituate Harbor has sustained a fishing fleet since colonial times. As a community we place great value on this heritage. Our Historical Society maintains an active Irish Mossing and Maritime Museum. We are presently completing the transformation of an aging boat yard into a Maritime Center which includes a maintenance and storage facility for commercial and recreational vessels. In addition, Scituate is home to the headquarters facility of the Stellwagen Bank National Marine Sanctuary as well as a seasonal United States Coast Guard Station.

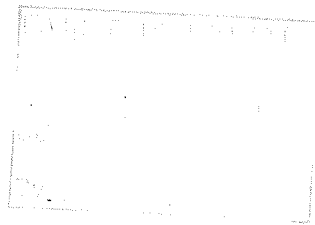
We are strongly supportive of the proposal for Fishing Sectors. We have witnessed our fishing fleet gradually losing its economic vitality under the inefficient and ineffective days at sea system. We are concerned that continuation of this approach will threaten existence of our fishermen.

We believe that the concept of Fishing Sectors fits well with the strong cultural bond between our community and its fishing industry. We urge you to include this opportunity for innovation and accountability as a core element in Amendment 16.

Sincerely,


Joseph P. Norton, Chairman
BOARD OF SELECTMEN

JPN:jag





Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON MA 02133-1054

Frank I. Smizik

CHAIRMAN
COMMITTEE ON CLIMATE CHANGE

John Pappalardo
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Approve Sector Proposals in Amendment 16

Dear Mr. Pappalardo:

April 13, 2009

As the New England Fishery Management Council (NEFMC) prepares to vote on the final groundfish management measures in Amendment 16 at its June meeting, I write to respectfully encourage the NEFMC to approve the 19 sector proposals. As House Chair of the Committee on Climate Change, and as an active member of the Massachusetts Ocean Advisory Commission, I am concerned about the impacts of climate change and overfishing on our marine resources. The already anemic groundfish fishery is indicative of how the inefficient days-at-sea management system has failed to rebuild fish stocks and sustain fishing communities. By approving these groundfish sectors, the NEFMC has the opportunity to implement a solution that will save the nation's most historic fishery and the communities that depend on it.

Sectors are the best way to ensure that New England's fisheries remains sustainable and equitable. Sectors offer the opportunity to end overfishing while increasing the profitability and safety of the fishery by restricting catch to scientifically determined catch limits and removing regulations that lead to wasteful discards and unsafe fishing practices. Sectors also give fishermen the flexibility to improve their efficiency because they are free to determine how they can most profitably fish within those catch limits. Furthermore, the sector's share increases as the health of the resource improves, rewarding fishermen for fishing in ways that ensure the recovery and long-term health of the resource.

The two sectors underway in New England are already showing signs of success. Over 40 fishermen on Cape Cod are practicing more sustainable methods of fishing for cod in Georges Bank and were able to keep over 200,000 pounds of Georges Bank codfish that would most likely have been discarded were they not operating under sector management.

I appreciate the work that you have done to support sustainable fishing practices in New England and respectfully call on the NEFMC to move this process forward by approving the 19 sector proposals in Amendment 16.

Sincerely,

A handwritten signature in black ink that reads "Frank I. Smizik".

Frank I. Smizik

