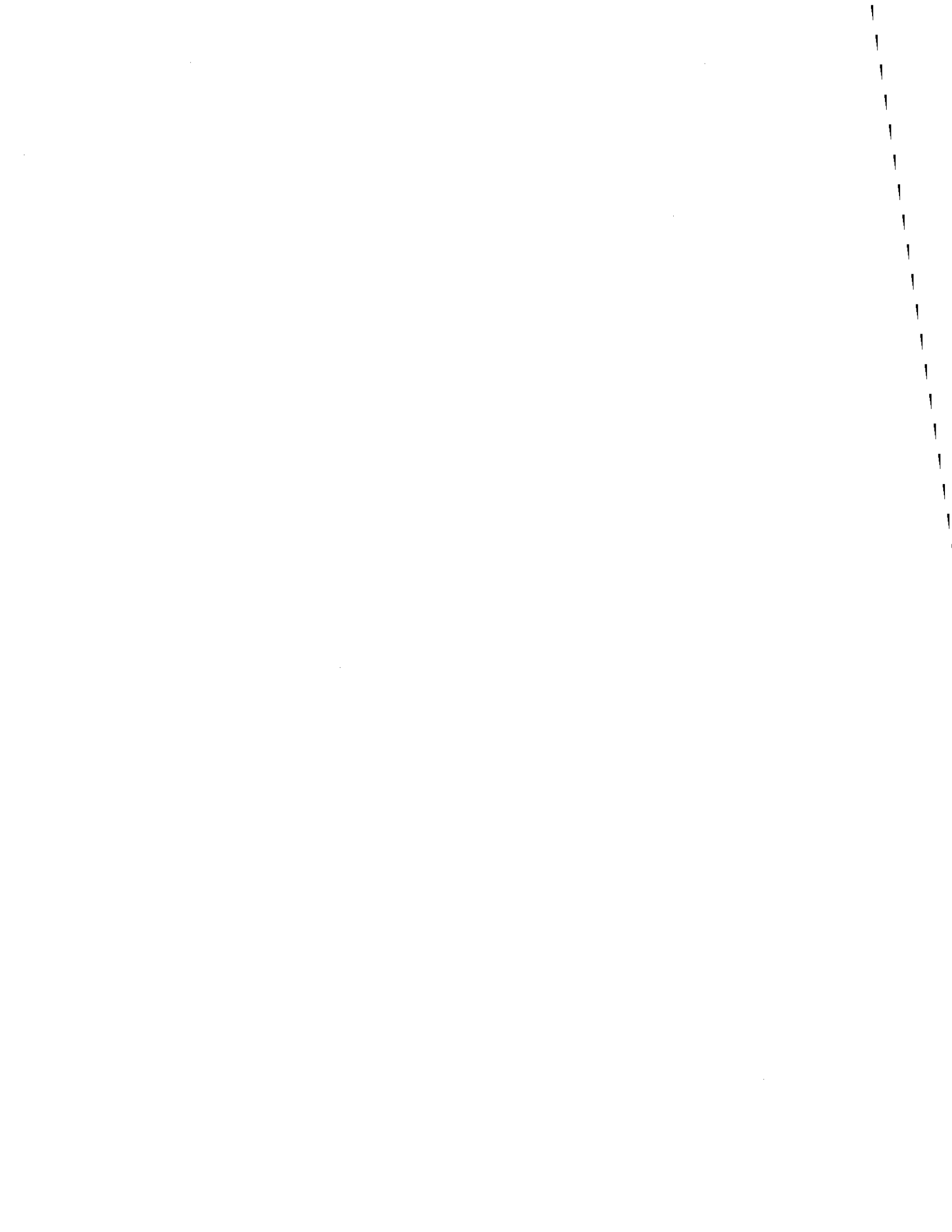


#11

Correspondence





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

Ernest F. Stockwell, III, Acting Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

SEP 13 2013

Dear Terry:

During the August 14, 2013, Groundfish Oversight Committee (Committee) my staff committed to providing additional clarification about unused sector annual catch entitlement (ACE) carryover for fishing year (FY) 2014 and beyond. Recall we put in place an interim approach for FY 2013 to address a unique situation and was put forward as a transition to a more long-term solution. This transitional approach has been challenged in court.

As part of Framework Adjustment 50 rulemaking we implemented clarification, through our Magnuson-Stevens Act section 305(d) authority, of how carryover accounting would be handled beginning in FY 2014. This clarification was deemed necessary to ensure that the carryover provisions are carried out in a manner consistent with Magnuson-Stevens Act requirements and provisions. The Framework 50 measures were recently finalized¹.

Under the clarification, sectors may continue to carryover up to 10 percent of the previous fishing year's unused ACE as has been the case since the expanded sector program was put in place. What has changed is how we will track and account for carried over ACE, when used. There are two components involved. First, we will determine a *de minimus* level of carryover that, if used, would not be expected to cause the sector sub-annual catch limit (ACL) to be exceeded. This *de minimus* level, which is intended for an end-of-year safety buffer, will not count against a sector's ACE. We are still determining what approach to use for the *de minimus* carryover level and will share that analysis with the Plan Development Team and announce the final amount through notice-and-comment rulemaking this fall. Second, unlike previous years, we will count carryover used above the *de minimus* amount against a sector's ACE for the purpose of determining accountability if the total species/stock level ACL is exceeded. If the total ACL is not exceeded, we will not count carryover used against ACE for accountability measure (AM) determination. This is a fundamental change in catch monitoring, as we have, for the FYs 2010-2013, not counted carryover catch against sector's ACE for the purpose of determining if overages have occurred. We've provided some example scenarios at the end of this letter to illustrate how the clarified carryover system will function.

This approach is designed to allow carryover at the sector level as long as the overall ACL is not exceeded. This allows each sector to assess the consequences of using carryover in a given year. If a sector decides to use all of its carryover in a given year and the overall ACL for that

¹ Framework Adjustment final rule 78 FR 53363; August 29, 2013, effective September 30, 2013.



particular stock is exceeded, the sector would be subject to a strict AM equal to a one-for-one reduction in its subsequent year ACL. If a sector uses its carryover but the overall ACL is not exceeded, then the sector reaps the full benefit of the carryover, and the overall objective of not harvesting a stock above its overall ACL is achieved. Thus, the benefits of a carryover are maintained on a year-to-year basis, but not without strict AMs being triggered if the overall ACL is exceeded.

To better understand this approach, the preamble to the final rule for Framework 50 used the term “total potential catch,” which equals the total ACL + full 10-percent carryover for each sector in a given fishing year. Whereas the total potential catch in any given year may exceed the ACL for a stock on paper, the reality is that the ACL and ABC for a stock are still in force in that there are AMs that will be triggered if the ACL is exceeded. For FY 2013 we examined the likelihood that the total potential catch would be realized and concluded such risk was small. Historically, sectors have often under-harvested available sub-ACLs for most stocks, and other fishery components have similarly not fully utilized catch limits. When under-harvest occurs in year 1, there may be some increase in the stock in year $t+1$ that, while not specifically quantified through a stock assessment framework, helps reduce the risk of overfishing. This is the key element on which we are being litigated, under the argument that such an approach is inconsistent with both the National Standard 1 guidelines and the Magnuson-Stevens Act.

As previously mentioned, we will provide the Council and the public more information on what we propose as *de minimus* this fall through both analysis and rulemaking. The key element of the *de minimus* amount is that its utilization would not, by itself, cause the sector sub-ACL to be exceeded. It would be considered part of the management uncertainty and, as such, in the future the Council may wish to consider whether additional buffers between ABC and ACLs are necessary.

To account for leased and traded ACE, the sector that leased and used carryover as either landed or discarded pounds (i.e., lessee) would be responsible if an AM is triggered, not the sector providing the leased or traded carryover ACE (i.e., lessor).

The clarification also added language that allows the Council to request that we adjust carryover, if needed, through Administrative Procedure Act rulemaking. We envision that, if needed, this could logically be conducted through a specification framework or other framework action. This was included to respond to the situations where quotas substantially decrease and the carryover amount, if taken, would exceed the overfishing limit. It is our hope that by including this provision, the need for emergency rulemaking to prevent overfishing can be avoided in the future, should a situation similar to the FY 2012 to 2013 quota change occur again.

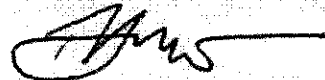
The Framework 50 proposed rule, interim final rule², responses to comments, and analytical appendix prepared for the framework’s Environmental Assessment provide detailed explanations and rationale for the clarification. No comments were received directly related to the technical components of the clarification. I encourage the Council to review those documents, as they provide a great deal of information. If changes to the carryover approach are desired by the

² Framework Adjustment 50 proposed rule 78 FR 19368; March 29, 2013. Interim final rule 78 FR 26118; May 3, 2013.

Council, they would need to be developed and recommended through the Council process. We would be happy to work with you, should you choose to pursue modification of the existing carryover program.

My staff from the Sustainable Fisheries Division are available to answer any additional questions you may have after reading this letter. Please direct questions to Susan Murphy, Groundfish Team Supervisor, or Mike Ruccio. Both can be reached at (978) 281-9315.

Sincerely,



JS John K. Bullard
Regional Administrator

Cc: William A. Karp, Director, Northeast Fisheries Science Center
Thomas A. Nies, Executive Director, New England Fishery Management Council

Example carryover scenarios and applicable accountability measures.

The following examples use Gulf of Maine (GOM) haddock (all weights in metric tons):

FY 2013 sector sub-ACL	Potential maximum carryover (10%)	FY 2014 sector sub-ACL	FY 2014 total ACL
186	19	218	323

Scenario 1: Maximum carryover of 10 percent is brought forward from FY 2013 (19 mt). The carryover is fully utilized in FY 2014. The sector sub-ACL of 218 mt is exceeded but the total ACL of 323 mt is not exceeded.

Under this scenario, other components in the fishery did not use their full allocation, so sectors benefit from the under-harvest as a way to offset the carryover used (up to the full 19 mt). There would be no overage repayment AM imposed on sectors, even though the sector sub-ACL was exceeded by the use of carryover. Because no sector-level AM is evoked, the *de minimus* amount does not come into play. As an example, final FY 2014 catch might look something like this:

FY 2014 sector catch: 237 mt (218 + 19 carryover)	FY 2014 total fishery catch: 320 mt	Sector AM applied?
Note: 218 mt sub-ACL exceeded	Note: 323 mt total ACL not exceeded	No

Scenario 2: Maximum carryover of 10 percent is brought forward from FY 2013 (19 mt). The carryover is fully utilized in FY 2014. The sector sub-ACL is exceeded, as is the total ACL.

Under scenario 2, sectors would be responsible for their contribution to the total fishery-level ACL overage, including any carryover used, excluding the *de minimus* amount. This example assumes that the full ACL overage was wholly the result of the 19 mt available as carryover causing the overage. It is possible that fishery components other than sectors could contribute to a stock-level overage. In such cases, sectors would only be held accountable for their contributions to the overage. Again, as an example:

FY 2014 sector catch: 237 mt (218 + 19 carryover) Note: 218 mt sub-ACL exceeded	FY 2014 total fishery catch 340 mt Note : 323 mt ACL exceeded	Sector AM applied? Yes, up to the sector sub-ACL overage amount, excluding <i>de minimus</i> amount. Roughly 18.8 mt repayment assuming 1 percent permitted as <i>de minimus</i> .
--	---	---

In other potential scenarios where the total ACL is exceeded but the sector sub-ACL is not, there would be no AM imposed on sectors, consistent with the fishery management plan provisions. This would be true even if some sectors had brought forward and used carryover. This would mean that some sectors underutilized the available allocation and the underage was sufficient to offset the amount of carryover used by other sectors, such that the sub-ACL was not ultimately exceeded.

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

September 12, 2013

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

C.M. "Rip" Cunningham, *Chairman* | Thomas A. Nies, *Executive Director*



Dear Groundfish Committee:

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

The purpose of this letter is to address some of the PDT issues that were raised with our plan for A18 and resubmit our revised plan that incorporates some of the latest input from the PDT and Council. The issues are addressed below in the order of the PDT Memo of 8/8/2013:

1. The PDT is correct where we wish to be managed more in line with the Recreational fishery. The commercial Handgear fishery is the same as the recreational fishery where typically a Rod and Reel is used to catch groundfish with the same lures (jigs) or bait. Although we can use a tub trawl (old style method baited up to 250 hook long line), this is rarely used due to the high numbers of dogfish. In some ways the recreational fishery is allowed to use more liberal gear such as electric assisted reels. Recreational fishermen are also able to fish in several areas (Jefferies ledge, rolling closures, etc.) that commercial fishermen cannot. Since we are limited to essentially the same gear and want the same type of management measures, (Trip limits & Size limits), our plan for A18 makes the Handgear fishery as similar as possible. In addition to the limits of our gear, we have the same de minimis effect on the habitat. Since we are managed by quotas there are no needs for the effort controls (area closures such as Jefferies) of the past that no longer make sense for the Handgear fishery. The rolling closures (especially for cod) have been replaced with spawning closures. We do not catch many of the fish (flounders, hakes, monkfish, ect.) that rolling closures were also set up to protect.
2. The PDT is correct where the Handgear HA permit holders would not be given an individual fishing quota (IFQ) and our plan is not intended to be a LAPP. All HA permit holders would share the same sub-ACL just as the Recreational fishermen share the same quotas of cod and haddock.
3. **The Handgear fishermen are not interested in Sectors.** As the PDT stated Sectors is way too complicated for a simple fishery as ours and the costs are prohibitive. In addition this fishery needs to be simple enough so a 17 year old kid can go buy a skiff, some tackle and start fishing. The only way to keep this fishery simple and accessible to anyone is to not have the fishery become a sector. Asking for the numerous exemptions in addition to the administrative issues is not a viable future to restoring this fishery or even maintaining the current fishery. About 100 Handgear permits exist and only 1 HA permit holder has joined a sector. 99 have had the chance and have not unless they are just leasing their quota to other boats in the sectors (dragners, gill netters or long lines). In addition we do not have to continue to watch out for any broad brush administrative actions that would apply to "all sector vessels" that may sneak out of a fishery plan that would harm our method of fishing. The only way to preserve this fishery is to make it distinct and treated differently. It should be noted that just about all the New England state groundfish regulations for using hook gear are just as simple as what we are asking for when we cross the 3 miles line into federal waters.

Sectors will not work for the following reasons:

- a. **To complex and daunting for a 17yr kid to begin earning some income commercially fishing.**
- b. **This will never preserve the handgear fishery history.**
- c. Cod is the primary catch of handgear fishermen and it would not be profitable to lease cod, at the going rate to make a profit. We cannot fish on cod for a loss and compensate with other fish (flounders, redfish, monkfish, etc.) in our catch that handgear fishermen don't catch.
- d. The costs of forming a handgear sector is prohibitive.
- e. The costs of maintain a handgear sector is prohibitive.
- f. The costs of compliance with sector requirements at sea are prohibitive (VMS, at sea Observers, ect).
- g. The small boats we operate (sometimes open skiffs) will not work for sector requirements (VMS, At sea observers, ect).
- h. Handgear fishermen do not possess other fish species to trade ACE for fish we catch such as cod because we never caught these species (flounders, redfish, monkfish, etc.).
- i. Handgear fishermen would constantly be under threat of brush administrative actions that we would have to defend if in a sector.
- j. No handgear fishermen has the time to administer a sector.
- k. Existing handgear fishermen joining a current sector will not stop the bleeding of the handgear history.
- l. Requiring all sectors to prohibit handgear ACE from using handgear history on non handgear boats is unrealistic.
- m. Existing sectors primarily consist of fishermen not using handgear.
- n. No willing active handgear fishermen has the time or interest to be a sector manager.
- o. Not enough profit to hire/pay a sector manager.
- p. Profits from handgear fishing do not support the administration of a sector.
- q. Sector detailed reports too complex and time consuming for the handgear fishery.
- r. Sector Manager Detail Reports too complex and burdensome for handgear fishermen.
- s. Sector Manager Trip Issue Report too complex and burdensome for handgear fishermen.
- t. ACE Status Report too burdensome for handgear fishermen.
- u. Daily ACE Status Report unrealistic for handgear fishermen.
- v. Sector requirements for ensuring zero catch of handgear fishermen with no ACE extremely complex.
- w. Consolidation of ACE plan is too complex for this fishery.
- x. Redirection of effort plans is too complex for this fishery.
- y. At-Sea Monitoring not needed for the handgear fishery due to limited catch.
- z. Detailed information about overage penalties is too complex for this fishery.
- aa. Legal entity provisions for a small skiff fishery is unrealistic for the scale of the handgear fishery.
- bb. A list of specific ports where handgear fishermen fish is unrealistic since some trailer their skiffs to many ports.
- cc. Sector hail requirements are impossible since handgear fishermen do not know if the weather will work until they are sometimes at the dock and test the weather.
- dd. Requesting exemptions are very complex and there is no guarantee the any will be approved.
- ee. Pre-trip notification is impossible since we can't predict if the weather will be ok in advance. Weather is a huge concern because the small size of our boats.
- ff. Handgear vessels are not set up for at-sea monitor requirements due to their small size.
- gg. Reasonable privacy for female At-Sea Monitors is impossible on an open skiff or small boat.
- hh. Many more reasons not mentioned.

4. *Would the Committee prefer to develop fishery regulations for the HA permit holders that are distinct from those governing the common pool and sectors?*

The NEHFA is asking the Committee to accept our plan so we can finally be managed as a Handgear fishery as simply as possible. We are asking the Committee to answer **Yes** to this question.

Would the Committee prefer to modify the common pool regulations, under which most of the HA permits are fished?

We are asking the Committee to answer **No** to this question. Very our fishery will cease to exist under the current regulations. We cannot continue to compete for the same fish as draggers and gill netters in the common pool. Also, eventually HA permits with history (PSC) will be sold off to other gear types under the current system. To preserve and restore this fishery the Handgear fishery must be separated as the recreational fishery was for cod and haddock in A16 where they were given their own allocation for the very same reasons.

Are there specific ideas in the NHFA proposal that the Committee would like to develop further at this time?

We are asking the Committee to answer **all** to this question with the addition of a small historical allocation of Haddock and possibly Pollock to cover the majority of the species caught. The NEHFA plan was developed over 3 years ago with discussion between many active Handgear fishermen, State fishery representatives and NMFS NERO staff. It is a well thought out plan that keeps the fishery simple and easily managed. This plan may end up being one of the more successful fishery management plans if implemented and it is exactly in line with goals of A18. Doesn't fleet diversity include small Handgear fishermen and their vessels? We would like to work directly with the PDT to resolve any issues in our plan that the PDT has raised if the committee requests.

5. The following comments are in response to the specific issues raised by the PDT when the PDT examined the NEHFA plan:

#12 *Allocate the Handgear HA permit category cod history (PSC) from 1996-2006 as a sub-ACL for use by HA fishermen.*

Response to PDT comments: Not sure how our plan takes quota away since we are asking that Handgear history be separated. **It is Handgear history.** We want to be independent fisherman not attached to sector plans and yes we can wait until A18 does what we are requesting. What we are requesting preserves this fishery for future generations of fishermen. **We modified this for cod, haddock and pollock history.**

#13 *Specify Handgear cod sub-ACL can only be used by HA fishermen, using Handgear, if fishing in a sector.*

Response to PDT comments: Way to preserve this fishery from Handgear ACE being used by other gear types and lost forever. **We modified this for cod, haddock and pollock history.**

#14 *Remove March 1-20 Handgear fishing closure.*

Response to PDT comments: Same enforcement as Recreational fishermen is all that is needed. In fact the current VTR reporting in addition to Dealer Reporting is much more conservative than the recreational fishery where the data is not real time and many months out before being processed. Not an issue due to the small percentage of the fishery the Handgear catch.

#15 *Access to fish in all permanent and rolling closures except the cod spawning closures.*

Response to PDT comments: Same access requested as the Recreational fishery. Same gear and methods. Yes we are requesting a small allocation of haddock. There are no closed area issues with the recreational fishery so this would not be a concern.

#16 Do not require LOA to fish on a commercial groundfish trip or a charter/party trip.

Response to PDT comments: We concur with the PDT comments. This provides more flexibility for the Handgear fishermen.

#17 Up to 20% unused Handgear HA cod ACL may be transferred to the following fishing year.

Response to PDT comments: **We modified our proposal for 10% to be consistent with other fisheries.**

#18 Eliminate trimester AMs for HA permit holders developed in A16.

Response to PDT comments: Concur with PDT. We should have a sub-ACL for all stocks we catch if possible.

#19 Automatic triggers to not exceed Handgear cod sub-ACL.

Response to PDT comments: Trip and size limits should work. Maybe 3 year average like the recreational fishery can be used for the Handgear fishery? **We changed our proposal for reactive measures.**

#20 Do not require IVR call-in unless 85% of the cod Handgear sub-ACL is harvested. Call in modified to streamline what is needed for this fishery.

Response to PDT comments: Is IVR really necessary with Dealer reporting and VTRs? The catch rates are slow enough and IVR was not required for until recently. Would future Web based VTRs submitted within 48 hrs. suffice instead of IVR? **We changed our proposal for 50%.**

#21 One HA permit per fisherman. One-time sell provision for existing HA permit holders.

Response to PDT comments: **NEHFA put this in abeyance for future fishery actions. This may be too complicated for this fishery amendment.**

#22 Removal of requirement for HA fishermen to carry a tote.

Response to PDT comments: Not needed and only Handgear fishermen were ever required to carry a tote. Totes not used takes up deck space that is precious on small boats. Handgear Fish are kept in cooler. When offloaded they are transferred into totes.

#23 Changes to Handgear input controls.

Response to PDT comments: Concur: The method (rod and reel or tub trawl) would remain the same. With quotas the input controls can be relaxed.

There are very few active Handgear fishermen left. The handgear jig fishery was the first in New England and if nothing is done it will be the first to be eliminated.

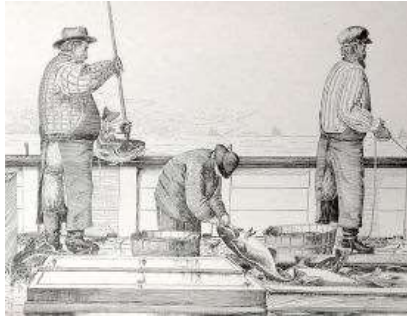
Respectfully,
Marc Stettner /s/

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

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

NORTHEAST HOOK FISHERMEN'S ASSOCIATION

AMENDMENT 18



Gaffing and cleaning cod on the deck of a handlining schooner off the North American east coast, ca. mid nineteenth century.

“Prior to the introduction of steam trawling in 1906, groundfish were caught exclusively with baited lines, fished from schooners and their dories.”

<http://www.nefsc.noaa.gov/history/stories/groundfish/grndfsh1.html#st>

This proposal is fully supported by the Handgear fishermen of the NEHFA:

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

TABLE OF CONTENTS

Section 1	Summary of proposal with management measures.
Section 2	Status of the Handgear fishery.
Section 3	Why change?
Section 4	Specifics of proposal and discussion.
Section 5	Why current HA fishermen should support this.
Section 6	Why Fishery Managers should support this.
Section 7	Sample HA permit waiting list.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures.

#	PROPOSAL	CHANGE FROM CURRENT MANAGEMENT MEASURES	BENEFITS TO HANDGEAR FISHERY RESTORATION FOR FLEET DIVERISTY
<u>1</u>	Allocate the handgear HA permit cod history (PSC) of all groundfish (cod, haddock & pollock) HA fishermen catch from 1996-2006 as a specific Sub ACL only to be used by Handgear HA fishermen. Include a stairstep allocation provision as the fishery increases	Yes	<ul style="list-style-type: none"> a. All gear types are fishing on cod groundfish handgear history in the common pool. b. Race to fish for handgear fishermen against other gear will be eliminated. c. Specific management measures for handgear fishermen will be made. d. Preserves a traditional fishery and gear type.
<u>2</u>	Specify handgear cod Groundfish Sub ACL history can only be used by HA fishermen, using Handgear, if fishing in a sector.	Yes	<ul style="list-style-type: none"> a. Currently Handgear Cod Groundfish PSC can be moved into sectors and this history may be fished by gear other than handgear. b. <u>Eventually all handgear PSC may be used by non handgear vessels and the fishery will be lost.</u> c. Preserves all the cod Groundfish history from moving away from the handgear fishery.
3	Handgear permit holders can sever their HA permit from other fishery permits to sell or transfer it.	Yes	<ul style="list-style-type: none"> a. This will allow fishermen who have other permits (lobster, scallop, etc) on their vessel to sell or transfer their permits without loss of their primary permit. b. This would be a way to increase the number of handgear fishermen.
4	Waiting list for new entrants into the handgear fishery	Yes	<ul style="list-style-type: none"> a. Will provide a fair way for new entrants into the fishery who do not have resources to buy a permit. b. This will be a way for HB permit holders to upgrade to a HA permit.
5	Use it or lose it rules	Yes	<ul style="list-style-type: none"> a. This will keep the permits with active fishermen who will use it and allow fishermen off the waiting list to get a HA permit.
6	Removal of March 1-20 Handgear fishing closure	Yes	<ul style="list-style-type: none"> a. Not necessary under ACLs.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures continued.

#	PROPOSAL	CHANGE FROM CURRENT MANAGEMENT MEASURES	BENEFITS TO HANDGEAR FISHERY RESTORATION FOR FLEET DIVERISTY
7	Cod trip limit increased from 300lbs to 400lbs.	Yes	<ul style="list-style-type: none"> a. Modest increase is necessary due to increases in operating expenses (fuel, bait, etc. b. Will provide further incentive for new entrants.
8	Access to fish in all permanent and rolling closures except the cod spawning closures.	Yes	<ul style="list-style-type: none"> a. Fishery under a hard ACL. b. Access should be the same as is for Recreational Fishermen who also use hook gear. c. Gear does not disturb bottom habitat.
9	LOA letter not required to fish either on a commercial groundfish trip or a Charter/Party trip	Yes	<ul style="list-style-type: none"> a. Flexibility needed on a day by day basis to choose what type of trip will be done. b. Many handgear commercial fishermen are also Charter boat operators.
10	LOA letter required when fishing in the Georges BSA .	No	<ul style="list-style-type: none"> a. The effectively makes sure the correct cod Handgear Sub ACL is accounted for.
<u>11</u>	Up to 20% 10% unused Handgear HA cod ACL may be transferred to the following fishing year	Yes	<ul style="list-style-type: none"> a. This is allowed in other fisheries. b. Better use of unused cod allocation.
12	Eliminate Trimester accountability measures for HA permit holders developed in A16	Yes	<ul style="list-style-type: none"> a. Catch rates are low. b. Catch of other primary handgear species in the common pool (haddock and Pollock) are not significant. c. Eliminate the race to fish under each Trimester. d. Separate cod sub ACL for Handgear fishermen.
<u>13</u>	Automatic triggers Reactive AMs to not exceed Handgear cod Sub ACL	Yes	<ul style="list-style-type: none"> a. Required by MSA. b. Developed specific to Handgear fishing practices and effort.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures continued.

#	PROPOSAL	CHANGE FROM CURRENT MANAGEMENT MEASURES	BENEFITS TO HANDGEAR FISHERY RESTORATION FOR FLEET DIVERISTY
<u>14</u>	IVR call in not required unless 85% <u>50% of the cod, haddock or Pollock Handgear</u> SUB ACL is harvested. Call in modified to streamline what is needed for this fishery.	Yes	<ul style="list-style-type: none"> a. Catch rates in this fishery are slow enough to loosen this reporting requirement. b. Repetitive information is gathered that is not needed. c. Current IVR call in requirements too complicated for this fishery.
15	Fish size limits per existing commercial regulations.	No	<ul style="list-style-type: none"> a. Size limits are an effective management tool especially for hook caught fish.
16	Discard mortality for hook caught cod will be set at 6-10%.	Yes	<ul style="list-style-type: none"> a. Current concept of 100% discard mortality is 100% wrong for this fishery. b. Best available science says 6-10%.
<u>17</u>	One HA permit per fisherman. One time sell provision for existing HA permit holders	Yes	<ul style="list-style-type: none"> a. Prevents corporations or NGOs from removing permits from the fishery. b. Allows new entrants into the fishery.
18	Removal of requirement for HA fishermen to carry a tote.	Yes	<ul style="list-style-type: none"> a. Handgear fishermen keep their fish in coolers. Totes take up needed deck space in small boats.
19	VTRs for reporting catch	No	<ul style="list-style-type: none"> a. Primary means of reporting catch.
20	Changes to handgear input controls	Yes	<ul style="list-style-type: none"> a. More flexibility needed to harvest cod Sub ACL b. Encourage more fishermen to participate in this fishery.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 2 STATUS OF THE HANDGEAR FISHERY

Current Commercial Cod Handgear Fishery:

(HA) Handgear A: Limited Access permit (limited number of permits)

A vessel with a valid open access multispecies handgear permit is allowed to possess and land up to 300 lb (136.1 kg) of cod, one Atlantic halibut per trip, and the daily possession limit for other regulated NE multispecies, provided that the vessel did not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board. A Handgear permit vessel may not fish for, possess, or land regulated species from March 1 through March 20 of each year and the vessel, if fishing with tub-trawl gear, may not fish with more than a maximum of 250 hooks.*

(HB) Handgear B: Open Access permit (open to any fisherman, unlimited in number of permits issued)

The vessel may possess and land up to 75 lb of cod and up to the landing and possession limit restrictions for other NE multispecies. Same gear and seasonal restrictions as HA permits.*

*Cod trip limit changes automatically proportional to cod trip limit changes for DAS vessels with Management actions.

Current Participation (2008/2009) data:

# Handgear HA Permits :	140
# HA fishermen who are active in the Cod fishery:	<10 (estimate)
# HB Permits:	1,137

Amendment 16 Data & Information:

Table 58 - Total number of multispecies vessels landing groundfish by permit category, FY 2004-FY 2007

Year	2004	2005	2006	2007
Individual DAS	691	637	590	530
Fleet DAS				
Small Vessel Exemption	2	1	2	4
Hook Gear	34	32	20	18
Combination Vessel	16	16	10	16
Large Mesh Ind. DAS	27	22	16	10
Large Mesh Fleet DAS	1			
Handgear Open Access	0			
Handgear - A	44	32	26	23
Handgear - B	75	63	59	73
Other Open Access	65	57	64	65
Total	955	860	787	739

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 3 WHY CHANGE?

1. The current handgear rules and multiple layers of restrictions have resulted in a handgear fishery that is not profitable. The average revenue for handgear HA permits has plummeted to less than \$5000 per year when at one time this was the primary New England method of catching cod in New England. The MS fishery act requires that there be diverse fisheries with different gear types.
2. Amendment 16 (A16) EIS (Environmental Impact Study) states “**Vessels less than 30 feet saw the biggest decrease in revenue, with an 88.8% change between FY 2001 and FY 2007**”. If no action is taken to invigorate the small boat fisheries, we will have been regulated off the water, due to fishery Management Actions, even as fish stock rebound.
3. Fishing under Sectors is not a viable option considering the high costs compared to the low PSC (Potential Sector Contribution) that the Handgear fishermen received. The overwhelming majority of Handgear fishermen did not join sectors. Those who have PSC are not likely to fish in the sectors but are more likely to lease or sell their PSC. A16 estimated that it will cost fishermen \$17,000 per vessel to participate in sectors. The allocation of Cod (primary species) to Handgear fishermen is not enough to make it a profitable option to join a sector. There is no guarantee that even if a Handgear fisherman leased additional cod that the fisherman will be able to land the fish since they must first bite the hook. Once all the current Handgear permits and PSC history is bought up vessels not using Handgear, it will be extremely hard for new entrants into the fishery.
4. The current Handgear (HA and HB permits) Cod trip limits are tied to increases in the Cod trip limits for vessels fishing under DAS. At the time of Amendment 13 this rationale made sense. The idea was to have an automatic adjustment as the cod fishery rebound. With the majority of fishermen in Sectors, and the Handgear fishermen in the Common Pool, there is the very real possibility the cod TAC for the common pool will be harvested before the Handgear fishery will have had a chance to harvest their traditional percentage of the fishery. There is no possible way for the Handgear fishery to harvest cod at the rate of modern fishing methods such as trawls or gill nets. In the race to fish Handgear fishermen will lose every time.
5. There is no way for a person who wishes to become a commercial fisherman, to obtain a viable groundfish permit without substantial financial resources. The future generations need a way to be commercial ground fishermen with minimal startup costs.
6. Handgear fishermen can selectively fish with little or no bycatch. New England handgear fishermen primarily only catch Cod, haddock and Pollock with practically no appreciable quantities of other groundfish that are not considered rebuilt.
7. The fishery is very easy to manage if the management measures are kept to a minimum. The primary management measure proposed for this fishery will be trip limits with an Annual Catch Limit (ACL).
8. Similar Hook gear fisheries are successful such as the Hook Gear Halibut fishery in Alaska and the commercial Striped bass fishery in Maryland.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

- #1 Permanently allocate the handgear HA permit and Groundfish history (PSC) of Cod, Haddock & Pollock from 1996-2006 as a specific Sub ACL only to be used for Handgear HA fishermen. ~~Institute a stairstep provision to increase the HA cod allocation by 1%, if 90% of the allocation is harvested in any given year. Step down provision to decrease the HA cod allocation by 1%, if 90% of the previous allocation (prior to the most recent stairstep increase) is not harvested during two consecutive years. The allocation would not drop below its initial permanent allocation level.~~**

Discussion: All gears can fish on HA permit history which in turn leads to a race to fish where other gear types can harvest the cod Sub ACL before handgear have had the chance to catch their historical percentage of the fishery. **It is fair to allocate this small percentage to the Handgear fishery as what was done for the recreational fleet and for other commercial fisheries. This is not a IFQ plan.** Once this allocation is made, management measures can be developed to eliminate the race to fish and to reestablish of this traditional fishery in New England. ~~The stairstep provision would be a means to expand the fishery as more fishermen are fishing with handgear as it hopefully becomes popular again~~

- #2 Specify handgear Groundfish (cod, haddock & Pollock) Sub ACL history can only be used by fishermen using handgear.**

Discussion: Currently under Sectors, it is possible for a Handgear fisherman to join a sector and lease their PSC to other sector members who do not use Handgear. A Handgear fisherman can also sell their HA permit with attached PSC to a Boat owner who transfers it to a skiff and then the Handgear PSC is transferred into the Sector. Unless this practice stops, all the historical handgear PSC will be lost to other gear types and the handgear fishery will be lost. This practice, if continued will severely affect the sustainability of those wishing to fish using handgear by lowering the cod Sub Handgear ACL. This would not prevent a Handgear fisherman from fishing in a sector but if they choose to then they must use handgear.

- #3 ~~Handgear permit holders can sever their HA permit from other fishery permits to sell or transfer it.~~**

~~Discussion: Many HA permits are tied to boats in other fisheries such as lobster. This would allow these fishermen to sever the HA permit off and sell it to anyone wishing to buy the HA permit. This would hopefully allow new entrants seeking a handgear HA permit into the fishery. Currently a lobster fisherman, for example, would have to sell his combined~~

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

~~lobster and handgear permit to someone at the combined price that may be significantly higher if it was just a handgear permit.~~

~~#4 **Waiting list for new entrants into the handgear fishery.**~~

~~Discussion: The current HA permit holders will only be able to sell their permit. The buyer will know up front that he/she will not be able to sell the permit in the future and the market price will determine the price of the existing permits when they are sold. Current handgear fishermen may have purchased their permit or invested heavily in the fishery with the intent of selling it which is why they must be allowed to sell their permits. The only way to obtain a permit after the sale of the initial HA permits will be off the waiting list. The waiting list will have two categories with one being current fishermen with DAS permits with some cod PSC and the second category will be open access Handgear B permits. When a permit is retired for failure to renew or under the “use it or lose it terms”, fisherman off the waiting list will be offered the permit.~~

~~List rules:~~

- ~~a. The order of the DAS fishermen list will be by highest cod PSC that would be transferred into the HA total sub ACL for cod. The higher the cod PSC attached to the permit the higher on the list the fisherman would be. A minimum of cod PSC (5,000 lbs, 10,000 lbs, 15,000 TBD) will be required to get on the DAS HA permit waiting list. The exact pounds of cod TBD by the NEFMC for this proposal with the intent that they would be bringing in about the cod they would catch under this permit. This would bring more cod quota into the handgear fishery that is very much needed. Once this fisherman obtains a HA permit their DAS permit is retired from the fishery.~~
- ~~b. The order for the HB permit will be by the date they initially obtained a HB permit.~~
- ~~c. The selection for new entrants will start with a fisherman from the DAS category and will alternate between the two as permits as permits become available. See the enclosure for how the waiting list will be generated and the order.~~

~~#5 **Use it or lose it rules**~~

~~Discussion: In order to retain a HA permit fisherman must land (250 lbs, 500 lbs or TBD) cod in any one year out of three. Failure to land #lbs (TBD by NEFMC) will result in being ineligible to renew their permit. This will result in some way for new entrants into the fishery. A fisherman who loses their HA permit may petition the NMFS for reasons that include military service where they are stationed overseas or with a note from a Physician that states they were unable to fish for the last year of the three and that they can now fish. Failure to petition the NMFS within 3 months (postmarked letter) after May 1st of the 3rd year will result in the loss of the permit.~~

#6 Removal of March 1-20 Handgear fishing closure

Discussion: No longer needed with a specific groundfish Sub ACL. Catch of other species is not significant enough to warrant this closure. Spawning areas have replaced the need for this measure along with ACLs.

~~#7 Cod trip limit increased from 300lbs to 400lbs.~~

~~Discussion: Handgear fishermen prefer a self imposed trip limit as a management tool. This will help spread out the small cod quota among the coast where the cod show up in abundance at various times. Those HA fishermen who wish to have unlimited cod trip limits may join a sector. This trip limit may be adjusted by future groundfish Frameworks or Amendments depending on the use of the HA cod Sub ACL and the status of the cod stocks. This modest increase in the cod trip limit is intended to offset the skyrocketing costs of fuel and other expenses since the 300lb trip limit was implemented. A higher trip limit and potential profit will help draw more fishermen into this fishery.~~

#8 Access to fish in all permanent and rolling closures except the cod spawning closures.

Discussion: Handgear fishermen would now be fishing under a cod Sub ACL and no longer need this effort control imposed under previous management measures. Handgear fishermen use small boats that mostly limit them to inshore waters. They do not disturb essential fish habitat. They should have the same access as the recreational fishery that also use hook gear.

#9 LOA letter not required to fish either on a commercial groundfish trip or a Charter/Party trip.

Discussion: Many handgear fishermen also are Charter/Partyboat operators. Flexibility is needed more than ever so a fisherman can choose if they wish to charter for the day or fish under their Handgear permit commercially. This LOA letter is not need when Handgear fishermen have access to the permanent and rolling closures. Enforcement will be similar to the BF tuna fishery where they are limited by the trip limits. Once a recreational trip limit is exceeded the trip is automatically becomes a commercial trip and a VTR would be filled out prior to returning to the dock as a commercial trip.

#10 LOA letter required when fishing in the Georges BSA.

Discussion: Existing measure. By default a fishermen without this LOA is fishing in the GOM. This makes sure the cod Sub ACL for handgear fishermen is deducted properly.

#11 Up to ~~20%~~ 10% unused HA cod ACL Quota may be transferred to the following fishing year.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Discussion: This would provide some stability from a poor fishing year into a good fishing year for quota management. Roll over provisions currently exists in other fisheries. This is a conservation positive provision since there is no guarantee the extra 20% will be caught.

#12 Eliminate Trimester accountability measures for HA permit holders developed in A16.

Discussion: Catch rates are low and this is not warranted because of a specific cod sub ACL. The primary catch is Cod with some haddock and pollock. The catch of other species is not significant.

#13 Automatic triggers to not exceed Handgear Sub ACL and reactive AMs.

Discussion: The following automatic AMs will be applied to make sure the cod Sub ACL (per BSA) will not be exceeded.

- a. Cod trip limit initially set at 300 lbs. When 50% of the Handgear ACL is harvested, the NMFS will reduce the trip limit (in increments of 100lbs but no less than 100lbs) to spread the cod fishery out over the remainder of the fishing year based on past historical catch rates per season.
- b. Haddock trip limit will be set for the year based on the historical catch rates.
- c. Pollock trip limit initially set at 500 lbs. When 50% of the Handgear ACL is harvested, the NMFS will reduce the trip limit (in increments of 100lbs but no less than 100lbs) to spread the pollock fishery out over the remainder of the fishing year based on past historical catch rates per season.
- d. Any overages in ACL would be subtracted from the next year ACL for each fish species.

#14 IVR call in not required unless 50% of the cod, haddock or pollock Handgear SUB ACL harvested. Call in modified to streamline what is needed for this fishery.

Discussion: Catch rates in this fishery are slow enough to loosen this reporting requirement. Repetitive information is unnecessarily gathered such as (phone number, BSA, gear used, ect). **Only end of trip IVR call in with permit number and VTR # is needed when 50% of the cod Sub ACL is reached.** The dealer reports the catch within 24 hrs. via the dealer reporting. The current call in & out system is too complex for this simple fishery.

#15 Fish size limits per existing commercial regulations.

Discussion: Handgear fishermen may choose to implement higher size limits as a management tool thru fishery Management plans. The 100% discard mortality number would have to change before this can be considered.

~~#16 Discard mortality for hook caught cod will be set at 6-10%.~~

~~Discussion: Discard mortality for hook caught cod will be set at 6-10%. "Survival of Discarded Sublegal Atlantic Cod in the Northwest Atlantic Demersal Longline Fishery", HENRY O. MILLIKEN, 2009 is the best available science and must be used.~~

~~#17 One HA permit per fisherman. One time sell provision for existing HA permit holders~~

~~Discussion: This is to be a one boat, one permit one Captain Fishery. No banking of the permits is permitted by entities, companies, organizations or NGOs. Only the fishermen using the permit will be able to obtain and keep this permit. This is a permit to harvest fish commercially, by fishermen, and is not to be a commodity to be traded or bartered by investors. **All initial Handgear HA permits will be able to be sold 1 (one) time only.** After this one time transfer, the permit can't be transferred to another person, corporation or NGO. See #4 above how this relates to the waiting list and for further information.~~

#18 Removal of requirement for HA fishermen to carry a tote.

Discussion: Handgear fishermen keep their fish in coolers. Totes take up needed deck space in small boats. Fish are often unloaded from coolers into totes at point of sale or at the dock where the fish are transferred off the vessel. Other commercial fisheries do not require totes to be onboard. Transferring the fish at sea from iced coolers to totes, spoils the quality of the fish. Since the quantity of fish is small, Handgear fishermen must maximize the quality. The dealer report will list the precise quantity of fish in pounds and this is reported to NMFS.

#19 VTRs for reporting catch.

Discussion: No change from existing regulations.

#20 Changes to handgear input controls

Discussion: Electric assist reels will be allowed on fishing rods. Small winches typically found as lobster haulers or line haulers may be used to bring in the 250 hooks (# hooks may increase in future fishery actions) tub trawl. Under a hard Sub ACL for cod these input controls are warranted. This is requested to allow an easier harvest of the cod Sub ACL but is keeping in line with the type of fishery this is. Electric assist reels are very popular in the recreational fishery for deep water fishing and this would help handgear fishermen target larger cod. Small winches for hauling the tub trawl is for safety reasons and well as easing the input controls.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 5 Why current HA fishermen should support this.

1. HA cod (haddock & Pollock) history is now part of the Amendment 16 common pool. If the other fishermen in the common pool catch the cod TAC early, the handgear cod fishery may be shut down before HA permit holders had a chance to harvest any cod. This is the race to fish that handgear fishermen will lose.
2. Removing the Handgear historical cod (haddock & Pollock) catch from the common pool cod measures Handgear fishermen will not be under a race to fish and can fish when it best suites their business plan.
3. Currently with the rolling closures small boat fishermen do not have access to the fishery when the weather is best suited and safe to fish.
4. Existing permits who decide to leave the fishery can sell/transfer their permits, to recoup any costs associated with their participation in the fishery, if they choose.
5. As the cod fishery rebounds, the cod trip limits will increase that will lead to much better profits per fisherman.
6. Exemptions from the rolling/permanent area closures (except cod spawning closures) which in some cases reduced Handgear cod catches by 75% and made the cod fishery inaccessible to many when cod are historically most plentiful. Handgear fishermen can't fish offshore or around rolling closures.
7. Future generations of fishermen will be able to actively once again participate in a historical fishery and be profitable.
8. **Once again a 17yr old HS student can borrow his parent's skiff and go commercially cod (haddock & Pollock) fishing in the summer instead of flipping burgers. The only cost to fish is the fuel to run the boat for the day and some ice. Eventually this fishery could lead to a way for new entrants into larger scale commercial fishing ventures for groundfish.**

Section 6 Why Fishery Managers should support this.

1. MSA requires a diverse commercial fleet with different gear types.
2. This is hard cod Sub ACL fishery.
3. This is basically a one species fishery that is easily managed.
4. Many layers of outdated Hangear management measures are removed.
5. Easy enforcement. The only enforcement necessary would be size limits and trip limits.
6. At sea monitoring is not required since handgear fishermen do not harvest many species nor do they move between management areas. Marine Mammal interactions do not occur in this fishery.

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

7. Double monitoring for quota purposes at point of sale (dealer) and via the traditional VTR. It is anticipated that Handgear will be able to enter their VTR trip data electronically at home via the internet after a trip.
8. Sustainable fishery to match the fishery stocks.
9. Catch rates are slow due to the gear used.
10. Reinvigoration of the handgear cod fishery fleet that has fallen to its lowest level ever.
11. Enable new entrants into a fishery without the unknowns of an open access fishery.

Section 7 — SAMPLE HA PERMIT WAITING LIST

#	DAS FISHERMAN NAME	DAS FISHERMAN PSC COD	HANDGEAR HB NAME	HANDGEAR HB DATE FIRST APPLIED
1	JOHN GODFISH	25,800	JAMES CONGER	1/15/2013
2	STEVE CUSK	12,700	JIM BLUEFISH	2/21/2013
3	TIM CUNNER	11,200	CHET SEABASS	7/8/2013
4	JOE BLOWFISH	10,350	BOB TUNA	1/10/2014
5	ANTHONY TUNA	8,560	TRACY YELLOWTAIL	3/21/2015
6	MARK TAUTOG	6,250		
7	PHIL FLUKE	5,100		

~~John Godfish would be picked first followed by James Conger and so on alternating between the two types of fishermen. Fishermen would declare their intent to remain on the waiting list or be added to the list with their permit application every year.~~



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

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

SEP 12 2013



Dear Tom:

Thank you for your letter requesting increased monitoring of the catch size composition of cod, haddock, gray sole, yellowtail flounder, plaice, and redfish as a result of reductions in minimum size limits for these species in Framework 48 to the Northeast Multispecies Fishery Management Plan. The motion passed by the Council at its April 24, 2013, meeting requests that NOAA Fisheries monitor and determine catch size composition, perform targeted port sampling, provide the Council and public with quarterly updates of monitoring results, and determine whether fishermen are targeting smaller fish, leading to a different fishery selectivity.

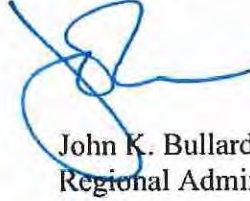
I have conferred with Dr. Karp at length on your request. The current fishery dependent data system was not designed for real-time monitoring of size frequency of catch. In addressing concerns raised in the Council motion, while it may be possible over time to detect shifts in the size composition of catch, it will be difficult to attribute increases in the proportion of small fish in the catch to increased targeting of small fish by the fishery. Increases in the proportion of small fish in the landings or total catch could be due to a number of reasons, including simple retention of fish that were previously discarded because they were below the minimum size at the time (the intention of the regulation change), recruitment of a year class that is larger than the previous year class(es), slower growth that results in smaller average sized fish, or changes in selectivity or targeting by the fishery (the focus of the Council's motion). Several years' worth of age data and a significant level of analysis would be necessary to distinguish among these possibilities; real-time length frequency estimates would not be informative. That being said, as we perform operational and benchmark stock assessments for species where minimum size limits were reduced, we will perform the analysis required to detect changes in selectivity and report our findings to the Council.

You should also be aware that in the weeks following implementation of this management action we received reports that some dealers have been refusing to buy the smallest fish because they are too small to fillet. Some dealers that are accepting small fish have resurrected old market categories for these sizes and are offering very low prices for them. We have modified our port sampling procedures to incorporate these new market codes and increased our sampling of the smaller market categories for each species. We have also conducted outreach to vessels and dealers to improve reporting of these categories. In light of these circumstances, it appears that at least initially there is not a strong economic incentive for the fishery to increase targeting of small fish.



Please contact me if you have questions concerning our response.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JB', with a large loop and a horizontal stroke extending to the right.

John K. Bullard
Regional Administrator

SUSTAINABLE HARVEST SECTOR

PO Box 356, So. Berwick ME 03908 | 207-956-8497 | www.groundfish.org

Tom Nies, Director
NEFMC
50 Water Street, Mill #2
Newburyport, MA 01950



Dear Tom,

Thank you for your letter of July 9, 2013 requesting members of the Sustainable Harvest Sector participate in interviews with your staff to provide “first-hand, current, and verifiable information about juvenile or spawning aggregations of fish”. You asked if the sector could suggest interviewees.

We believe this inquiry is better directed to fishermen’s organizations such as AFM, CCCHFA, and NSC. Our sector strives to remain focused on ACE catch and trading issues. It deliberately steers clear of fishery management issues, such as closed area discussions, when possible.

Most of our fishermen belong to one of the fishermen’s organizations (primarily AFM); these are the vehicles they use to participate in the management process and they expect interview requests like this to arrive through them, or via direct appeal such as a letter to permit holders.

We remain concerned over increasing requests (primarily by the NMFS) of sectors to perform duties outside of their fundamental ACE tracking and reporting role. Sectors have varying monitoring loads; ours track about 30% of the fishery’s allocation, and we do not feel it desirable to request additional time from our manager to poll the membership on issues that are not sector-specific. Nor can the membership afford to spend additional time (aka: money) on tasks outside the scope of service we have assigned to the sector.

Sincerely,

Frank Patania, President
Sustainable Harvest Sector





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
 NATIONAL MARINE FISHERIES SERVICE
 Northeast Fisheries Science Center
 166 Water Street
 Woods Hole, MA 02543-1026

September 10, 2013



Mr. Andrew E. Minkiewicz
 Mr. David E. Frulla
 Kelley Drye & Warren, LLP
 Washington Harbour, Ste. 400
 3050 K Street, NW
 Washington, DC 20007-5108

Dear Mr. Minkiewicz and Mr. Frulla:

Thank you for your letter regarding the 2013 Georges Bank yellowtail flounder assessment recently conducted by the U.S.-Canada bilateral Transboundary Resource Assessment Committee (TRAC) and for the follow-up conversation with Mr. Minkiewicz. I regret that we are unable to bring better news regarding the status and productivity of the Georges Bank yellowtail flounder stock.

I appreciate your acknowledgement of the work that my staff has put into the assessment. We too have serious concerns about the performance of the assessment model. But I do not support the argument that this is a "deeply flawed" assessment or that our inability to resolve the retrospective pattern in the assessment is evidence of a failure to bring the best available science to bear.

My staff and their Canadian counterparts have world-class stock assessment skills. Furthermore, the challenges associated with this assessment were addressed by an international team of stock assessment experts at a recent workshop and no one was able to propose a more effective modeling approach. We are, in fact, unlikely to improve model performance until we resolve a number of data-related questions regarding the dynamics of the stock. The retrospective pattern is itself a signal that we are unable to fully characterize the magnitude and nature of the factors that affect stock mortality (fishing and/or natural mortality), so this is certainly an area where further research is necessary.

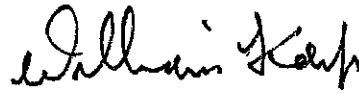
While we acknowledge that we have limited confidence in the assessment model and that we share your concerns regarding uncertainty, we are, unfortunately, also confident that our characterization of the stock as "depleted" and "performing poorly" is correct and that we have been unable to reduce fishing mortality to an acceptable level. Thus, the Transboundary Resource Assessment Committee's advice remains valid. Even though the New England Fishery Management Council's Scientific and Statistical Committee expressed some legitimate reservations and concerns regarding the Georges Bank yellowtail flounder assessment at their recent meeting, they also endorsed the TRAC guidance regarding the need to establish a 2014 quota of less than 500 mt.



I would like to address your concerns regarding criteria for judging the viability of an assessment. As you know, this is a complex issue and we did respond to a similar question posed by the Council several months ago. The peer-review process is, of course, integral to determining the viability of an assessment and it may be that some assessment products provide a suitable basis for developing management advice while others do not. We continue to work on this issue at a national and regional level, and I note that this will be an important topic for consideration during the Northeast Fisheries Science Center's 2014 program review, which will focus on stock assessment process and methodology.

My staff is drafting a proposal for developing alternative approaches for providing management advice for Georges Bank yellowtail flounder as an interim measure. I have also asked them to develop research recommendations for improving the assessment. We are working with our counterparts at the Northeast Regional Office on this, and will make this document available to the public as soon as possible. As we develop research plans, we will certainly take advantage of your offer to work with us on addressing research needs, and I look forward to the involvement of the Fisheries Survival Fund and other parties in the planning and execution of the work.

Sincerely,



William A. Karp, Ph.D.
Science and Research Director

cc: John K. Bullard, NMFS Northeast Regional Administrator
Samuel D. Rauch III, NMFS Acting Assistant Administrator
Terry Stockwell, NEFMC Acting Chairman

91 FAIRVIEW AVE
PORSTMOUTH NH 03801



**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

September 11, 2013

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

Thomas A. Nies, *Executive Director*



Dear Groundfish Committee:

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

We are requesting in Framework 51 that a measure be included to remove the trimester quota allocation system from the common pool. This request is made because the trimester quota allocation system accomplishes the following:

1. Creates a derby fishery where one didn't exist before.
2. Shuts down the fishery unnecessarily when the total ACL for the common pool and sectors has not been harvested.
3. Leaves fish un-harvested within a trimester when one stock causes the trimester to close.
4. Dumps all un-harvested quota, due to a shut down into trimester 3 (winter/spring), when the fish can't be harvested because of foul fishing weather or the fish moved offshore.
5. Quotas for some species such as GOM haddock are so low it has created an administrative burden to monitor such low quotas on a trimester basis.
6. Allocation of fish stocks are not set up to reflect when the fish are harvested leading to shutting down the fishery in a trimester.

The common pool did not experience any issues the first 2 years of Amendment 16 and it would be best to return this small percentage fishery to yearly catch limits and get rid of trimesters.

Respectfully,
Marc Stettner /s/

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



Email received 9/9/13:



From: Jim Hufnagle [<mailto:jrhufnagle@borhekinsurance.com>]

Sent: Monday, September 09, 2013 2:43 PM

To: Pat Fiorelli

Subject: SERA proposal for Stellwagon

Please forward this to Tom Nies

I am a recreational fisherman and strongly oppose the proposed closing of the Stellwagon Bank area. Being unable to attend the meeting planned for Sept. 17th, I wanted my voice heard. The economic impact of this would be huge. The impact on recreational fishermen, charter captains, commercial fishermen will be equally huge. It is a real shame the way our government has been stealing the very freedoms this country was built upon. Too many laws and restrictions. Very little enforcement on many of them. And you are creating taxes (fees) for everything, then stealing the money for uses other than intended. The US Government has become the biggest threat to the American citizen and way of life. Like a gang terrorizing a neighborhood in an epic scale!

We don't need a 55 sq. mile sanctuary to protect fish. We need to control the commercial overfishing of species and wasteful practices used to catch them. Practices that have been forced upon them by over regulation and decision made by people sitting in offices, not on the water seeing firsthand the realities of what they are dealing with. Commercial fishermen are forced to waste (dead discard) so much fish. There isn't a single species within the proposed area that resides there year round, which would be protected. You would only be providing temporary protection. If you can identify a species that is using this area as a breeding site, then close fishing for that species within that area at that time. Not all year and not all fishing!

Allowing this area closed to all fishing will be a travesty to America and an insult to our founding fathers.

Thanks,

Jim Hufnagle
Borhek Insurance
311 Plymouth St
Halifax, MA 02338
ph: 781-293-6331 fax: 781-293-2171

cc: Council, FH (9/11)

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities related to the business.

2. It also emphasizes the need for regular audits and reviews to ensure compliance with applicable laws and regulations.

3. Finally, it highlights the role of technology in streamlining operations and improving efficiency.

4.

5.

6.

7. The second part of the document focuses on the financial aspects of the business, including budgeting and forecasting.

8.

9. It also discusses the importance of maintaining accurate financial records and reporting.

10.

11.

12.

13. The third part of the document addresses the legal and regulatory requirements that businesses must adhere to.

14.

15. It also discusses the importance of staying up-to-date on changes in the law and regulations.

16.

17. Finally, it emphasizes the need for businesses to consult with legal counsel to ensure compliance.



3

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C. M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

July 26, 2013

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

Re: Proposed Rule to Allow Sector Vessels Access to Year-Round Closed Areas (*78 Federal Register 41772*)

Dear John:

On July 11, 2013 a Proposed Rule was published that requests comments on the Proposed Rule to Allow Sector Vessels Access to Year-Round Closed Areas (*78 Federal Register 41772*). I am concerned that the actions that are under consideration will inhibit the ability of vessels in sectors to mitigate the low catch limits that were adopted by the Council in Framework Adjustment 50. The industry, the Council and the Agency spent an enormous amount of time and effort to craft limited opportunities for sector vessels to target stocks such as Georges Bank haddock, pollock and redfish. One of these opportunities was the ability for sectors to request access to parts of the existing year-round closed areas. The imposition of the requirement for the industry to fund all at-sea monitoring (ASM) coverage for closed area access may prevent any participation in this program. Given the fragile economic state of many participants, the increased costs to fund observers may not be affordable. As a result, there will be little economic benefit to closed area access.

This concern was first raised in my letter of March 29, 2013 commenting on the FY 2013 Sector Operations Plan Proposed Rule (*78 Federal Register 16220*). These comments were deemed "not relevant" to that action and were not addressed in the interim final rule (*78 Federal Register 25591*). To ensure that they are addressed, I am reiterating and expanding those comments below.

A requirement in the Proposed Rule is that vessels accessing portions of year-round closed areas must have 100 percent observer coverage of all trips and that this coverage must be entirely funded by the industry. The Council opposes this new requirement. The Council did not choose to require 100 percent ASM coverage as a condition for access to year-round closed areas. Little, if any, justification is provided other than general statements that without higher coverage rates "discard rates would be difficult to estimate because there is little catch history in these areas" and the higher coverage would "allow NMFS to monitor whether vessels are interacting with protected species." Neither argument is convincing for the following reasons.

First, the implication that catch history is needed in order to accurately estimate discard rates is not supported by the Standardized Bycatch Reporting Methodology (SBRM) methods. Nothing in that document conditions the accuracy of discard estimates on past catch history. When new fishing modes have been adopted in recent years – loosely analogous to a new fishing opportunity inside a closed area – there has not been any requirement for increased coverage levels so that discard estimates will be accurate in spite of a lack of catch history. Second, the SBRM does not indicate that 100 percent observer coverage is necessary in order to accurately monitor protected species interactions. Third, there is no evidence that the Agency considered a coverage level that is higher than in open areas but less than 100 percent.

The Proposed Rule also states that “this level of monitoring would also provide an ancillary benefit of gaining additional fishery dependent data from the catch in these areas.” This is a false hope. The requirement for industry funding will probably discourage many vessels from fishing in the areas. It is also not clear that NMFS has considered whether the benefits of this additional data is worth the significant costs to the industry.

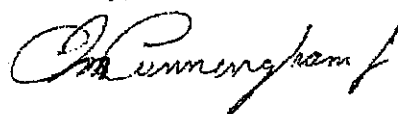
Even assuming that 100 percent coverage can be justified, the Agency’s rationale for requiring that it be funded by the industry is not convincing. The Atlantic herring FMP allows herring mid-water trawl vessels to fish in the groundfish closed areas only when an observer, funded by the National Marine Fisheries Service, is onboard. It is not clear why this approach is not also permitted for the groundfish fishery.

The Agency expresses concern that allowing vessels to use NEFOP coverage in these areas would encourage vessels to use the exemption if selected for an observer. It is difficult to understand why this is a problem, seeing as how it would encourage fishing on healthier stocks. If the concern is that these trips will reduce observer coverage for other trips, we note that the adopted FY 2013 coverage standard is much higher than that needed for the required CV for almost all stocks so there would appear to be some slack in the coverage requirements. In addition, the number of vessels that are capable of fishing in CAI and CAII is relatively small and would not greatly affect overall observer coverage rates. There should not be a concern that these trips are not representative of standard sector trips since the Proposed Rule indicates closed area access trips will be stratified separately. These are just a few examples of alternative ways to address this issue; I’m sure that industry representatives could identify many others.

Finally, the Regulatory Flexibility Act analyses in the Proposed Rule appear to ignore the substantial costs associated with the monitoring program. It is not clear that different monitoring alternatives were considered that might increase the positive economic impacts of the proposed action.

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

Sincerely,



C.M. “Rip” Cunningham
Chairman

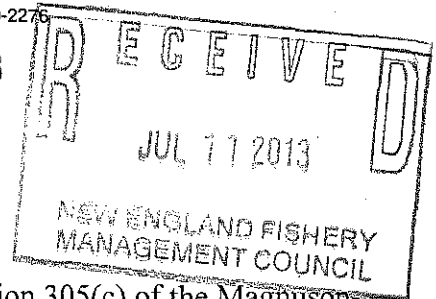
cc: William Whitmore, NERO



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

Captain David T. Goethel
23 Ridgeview Terrace
Hampton, NH 03842

JUL - 9 2013



Dear Captain Goethel:

Your May 24, 2013, letter requested interim rulemaking under Section 305(c) of the Magnuson-Stevens Act to implement interim rules to fix annual catch entitlement (ACE) lease prices at \$.50 per pound of fish in the Northeast multispecies fishery. For the reasons stated below, we are denying your request for rulemaking.

Any U.S. citizen may petition for rules to be issued, amended, or revoked under provisions of the Administrative Procedure Act. Because you are making your request as a private citizen rather than as a member of the New England Fishery Management Council (Council), your letter was evaluated as such a request. When we receive a petition for rulemaking, we are required to complete an evaluation of the request and formally notify the requestor of the course of action being taken. We may undertake the action requested in whole or in part or elect to not take action.

Your rationale is insufficient to justify NOAA Fisheries Service proposing interim or emergency measures, under Magnuson-Stevens Act Section 305(c), that would put in place the price controls. Interim measures, as opposed to emergency measures, may only be justified to immediately end overfishing and can be in place for no longer than one year. You have not provided sufficient justification or information to conclude that potential high leasing costs were unforeseeable given the low catch limits developed over the past year and that only interim measures can resolve the potential issue. Indeed, you raised the issue of leasing price controls to the Council in April and, at that time, the Council took no action to consider such controls. Furthermore your request does not explain how it would reduce overfishing, particularly since it would be in effect for up to one year only.

The concept of fixing lease prices is complicated and problematic and one that is arguably a departure from much of the discussion leading up to the implementation of Amendment 16 to the Northeast Multispecies Fishery Management Plan. One of the important objectives of the sector-based program, developed through Council process, was to provide operational flexibility by allowing ACE leasing. If implemented, price controls would also likely be controversial. A broader dialog is appropriate and necessary before any such rulemaking could be undertaken and the impacts fully analyzed. Any action to consider or implement lease price controls must involve the Council, sectors, the fishing industry, and the interested public. Given the level of involvement necessary to ensure these groups would have full, transparent participation and be fully informed, it would not be appropriate to bypass the Council process in considering and implementing price controls in this instance, and for that reason, it would not be justifiable for any other type of action available to the agency, such as an emergency or Secretarial action amendment to implement price controls.

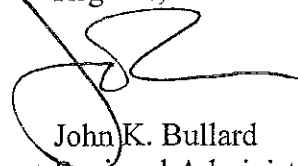


cc: Council, FH, JC, RF (7/12)

We are in the very early stages of examining the feasibility of posting lease-related pricing information online. This greater level of transparency, conducted within the bounds of Magnuson-Stevens Act confidentiality constraints, may help both the public and NOAA Fisheries track if collusion or price gouging are occurring in the lease market. As we continue our examination of if and how we may make available price information on a more frequent basis, we will be in contact with sector managers, the affected public, and the Council.

If you have additional questions on this letter, I encourage you to contact my Groundfish Team Lead, Susan Murphy, at (978) 281-9252.

Regards,

A handwritten signature in black ink, appearing to be 'John K. Bullard', written over a circular stamp or mark.

John K. Bullard
Regional Administrator

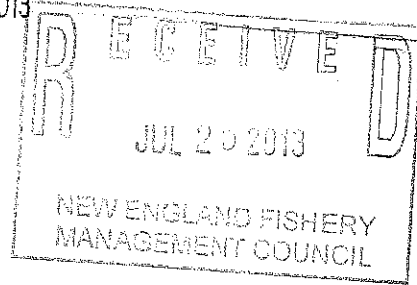
Cc: Mr. Thomas Nies, Executive Director, New England Fishery Management Council
Mr. Terry Stockwell, Chair, Council's Groundfish Committee
Dr. Bill Karp, Director, Northeast Fisheries Science Center



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

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

JUL 22 2013



Dear Tom:

As you know, we recently published a final rule in the Federal Register implementing Framework 48 to the Northeast Multispecies Fishery Management Plan. Prior to the final rule, the Framework 48 proposed rule contained a measure that proposed to remove the on-reel trawl gear stowage provision when transiting closed areas for groundfish trawl vessels. This issue was originally brought to the Vessel Monitoring System and Enforcement Committee (Committee) because of safety at-sea issues. However, as this provision was being developed, the measure that ended up in the Council's Framework 48 was significantly modified from the Committee's original recommendation. Due to public comment received on the proposed rule, enforcement concerns, and the inconsistency across fisheries that this measure would have created, the proposed gear stowage revisions were disapproved in the Framework 48 final rule.

Since the measure was disapproved, the safety at-sea concerns remain. To address these concerns, we were considering implementing the 'snow/construction fence' that the Committee, U.S. Coast Guard, and the fishing industry supported and previously tested through at-sea trials. My staff conveyed this to the Committee at its June 5, 2013, Committee meeting, and it was unclear whether the Committee was comfortable moving forward with this gear stowage method at this time. Because the Committee has already done a considerable amount of work on this matter and because gear stowage regulations are primarily an enforcement tool, I request that your Committee clarify whether they support the 'snow/construction fence' alternative and if not, whether they plan to continue researching safer gear stowage methods for on-reel trawl gear stowage. If the Committee is able to develop an approach acceptable to all the relevant parties, we will work with you to implement an additional stowage method, under my authority, provided at 50 CFR 648.23(b)(5), which allows us to approve additional gear stowage methods and implement them through publication in the Federal Register. I am sure we can work together to mitigate the remaining safety at-sea concerns.

Sincerely,

for John K. Bullard
Regional Administrator

cc: Council, O&A, LG, JE, FH (7/20)

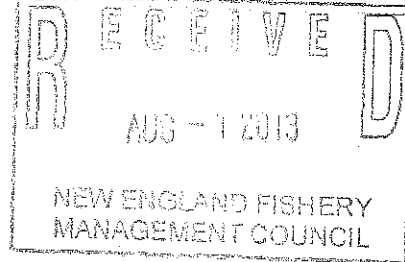


3



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

JUL 29 2013



Mr. C.M. "Rip" Cunningham, Jr., Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Rip:

As you are aware, the status of white hake has changed and the stock is now determined to no longer be experiencing overfishing, is no longer overfished, and is projected to be rebuilt by 2014. The updated status determination criteria for white hake, based on the recent benchmark assessment for this stock, were approved in the interim final rule implementing Framework 48 to the Northeast Multispecies Fishery Management Plan.

Also, the southern stock of red hake has been determined to not be experiencing overfishing.

These findings, particularly the increased abundance of white hake, should help the Council address the many challenges it faces in maintaining sound management for the many faceted groundfish fishery.

If you have any questions regarding this letter, please contact my staff in the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,

John K. Bullard
Regional Administrator

Cc: Dr. William Karp, Director, Northeast Fisheries Science Center
Emily Menashes, Acting Director, Office of Sustainable Fisheries

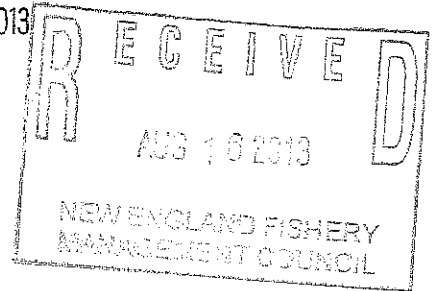
cc: Council, FA, JC (8/2)





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

AUG 14 2013



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

Dear Terry:

I would like to initiate a discussion with the Council about sector reporting requirements. Last November, NMFS staff met with the sector managers for a conversation about current sector reporting requirements and the associated reporting process. The sector reporting requirements discussed in November pertain to: Weekly catch reports, VMS catch reports, trip-end hail reports, and year-end reports. This meeting, and subsequent internal discussion, led us to conclude that we could streamline reporting requirements while maintaining or increasing data quality, and reducing the current reporting burden for sectors. When we raised the idea of combining VMS catch reports and trip-end hails under Regional Administrator authority, we were asked by Council staff to delay any changes to sector reporting requirements to allow the Council to participate in the discussion. Now that Framework Adjustments 48 and 50 have been implemented, I am raising this issue again.

Council staff members were unable to attend our November meeting, but did provide excellent comments about streamlining sector reporting requirements. Importantly, the comments focused on the larger picture and suggested that the conversation needs to begin by asking how the reporting requirements fit into the overall plan for monitoring and communicating performance of the fishery. This leads to questions about what data should be collected and how the data are used. Recently, we initiated a process to evaluate fishery-dependent data and reporting in the Northeast Region. As suggested by Council staff, we would like the discussion of sector reporting streamlining to be held in the context of overall fishery performance reporting and monitoring.

Below are several reporting measures that my staff identified as candidates for streamlining. Some of the changes would require Council action, while others could be done under existing Regional Administrator authority.

Sector Weekly Catch Reports

First, I would like the Council to consider granting additional Regional Administrator authority to streamline sector reporting requirements. For example, NMFS lacks the authority to remove the current weekly reporting requirement if a more efficient method for timely monitoring of sector ACEs is developed. In Amendment 16, the Council required sectors to report all landings and discards by sector vessels to NMFS on a weekly basis. At the time this was developed, the

cc: Council, FH, SC, RF (8/16), PMF



expectation was that sectors would be using real-time information from their vessels to monitor catch. In practice, we provide sector managers with a weekly download of trip data (dealer and VTR landings data, observer discard data, and calculated discard rates for unobserved trips). Sectors use the weekly downloads to update their sector accounting and then submit a weekly report to us. Data reconciliation occurs regularly between the sectors and us to improve monitoring accuracy. However, a more efficient process might be developed that would still involve timely monitoring and reconciliation of data sources between sectors and us.

Second, Amendment 16 required that all sector operations plans include a catch threshold for triggering more frequent reporting. The particular data used to trigger more frequent reporting, however, are not expressly covered by Amendment 16. The shared understanding has been that sector data provided consistent with the reporting regulations would be used in-season, based on the expectation that sectors would have timelier in-season data. Currently, sectors must report daily when catch has reached 90 percent of any ACE, and the increased reporting frequency is triggered by the catch as reported by the sector. When data have been reconciled, we would like to use our data to require daily reporting, rather than relying on sector self-reporting to trigger the daily reporting requirement.

Using our data would result in a more reliable and efficient in-season reporting adjustment. Unexpectedly, using sector data has not been timelier than using our reconciled data. This is because, as noted above, sectors have been using our data to avoid duplication of effort and increase efficiency. Sectors seek to avoid errors by using our data reconciliation process to provide more reliable data (the reconciled data are also used as the final data at the conclusion of the fishing year for purposes of monitoring compliance with ACE limits). Because the reconciled data are more accurate, they result in accurate triggering of increased reporting, and using our reconciled data would be more efficient and reliable than relying solely on sector reports. I believe we have the authority to use our reconciled data for sector in-season monitoring, but prefer to have your input on this.

VMS Catch Reports and Trip-End Hails

Third, last fall we raised the idea of combining VMS catch reports and trip-end hauls under Regional Administrator authority, but we were asked by Council staff to delay any changes to allow the Council to participate in the discussion. We would like to modify trip-end hauls to accommodate catch reporting for trips not required to report catch daily. This streamlining would eliminate the burden and cost of sending two VMS messages at the end of many trips.

Sector Year-End Reports

Finally, as we are in the fourth year of expanded sector management, the Council may want to consider its information needs for evaluating sectors and discuss whether or not the current annual report requirement is meeting those needs. Each sector must submit an annual year-end report to NMFS and the Council, as required by Amendment 16. The intent of the year-end report is to provide information necessary to evaluate the biological, economic, and social impacts of sectors and their fishing operations. The implementing regulations include some specific requirements for the year-end report, but NMFS annually produces a guidance document

(Preparing the Northeast Multispecies Sector Annual Year-End Report) that supplements the regulatory requirement for "other relevant information required" by specifying additional information the sector must submit as part of its annual report.

Currently, the annual report consists of two parts: Data tables and descriptive text. The data tables are generated by NMFS and provided to the sectors. The sectors are responsible for creating member IDs and using those to attribute ACE trades to individual members, and also for creating a table on internal ACE allocation redistribution within the sector during the fishing year. The descriptive text portion of the report is the sector's opportunity to describe itself, its operations, and its performance during the fishing year.

Parts of the year-end reports are considered confidential because sectors are considered a person and the reports are submitted in compliance with requirements the Magnuson-Stevens Act. Information necessary to make determinations about allocations (e.g., catch, ACE trade amounts) are an exception. Therefore, the complete reports are available only to NMFS staff; Council staff; and others, including state fisheries management staff, in accordance with a confidentiality agreement. This precludes most Council members from seeing the complete reports. However, information from these reports can be released in aggregate form if it maintains the confidentiality of the submitter's identity. For instance, in October 2011 NMFS gave a presentation on the FY 2010 year-end reports at the Council's sector workshop. Since that time, NMFS has primarily disseminated information from the year-end reports by incorporating it in the annual Report on the Performance of the Northeast Multispecies (Groundfish) Fishery. Staff responsible for that report participated in the November meeting with sector managers to discuss possible ways to improve sector input to the report either through their annual reports or other mechanisms. Does the Council want to change the requirements for sector year-end reports?

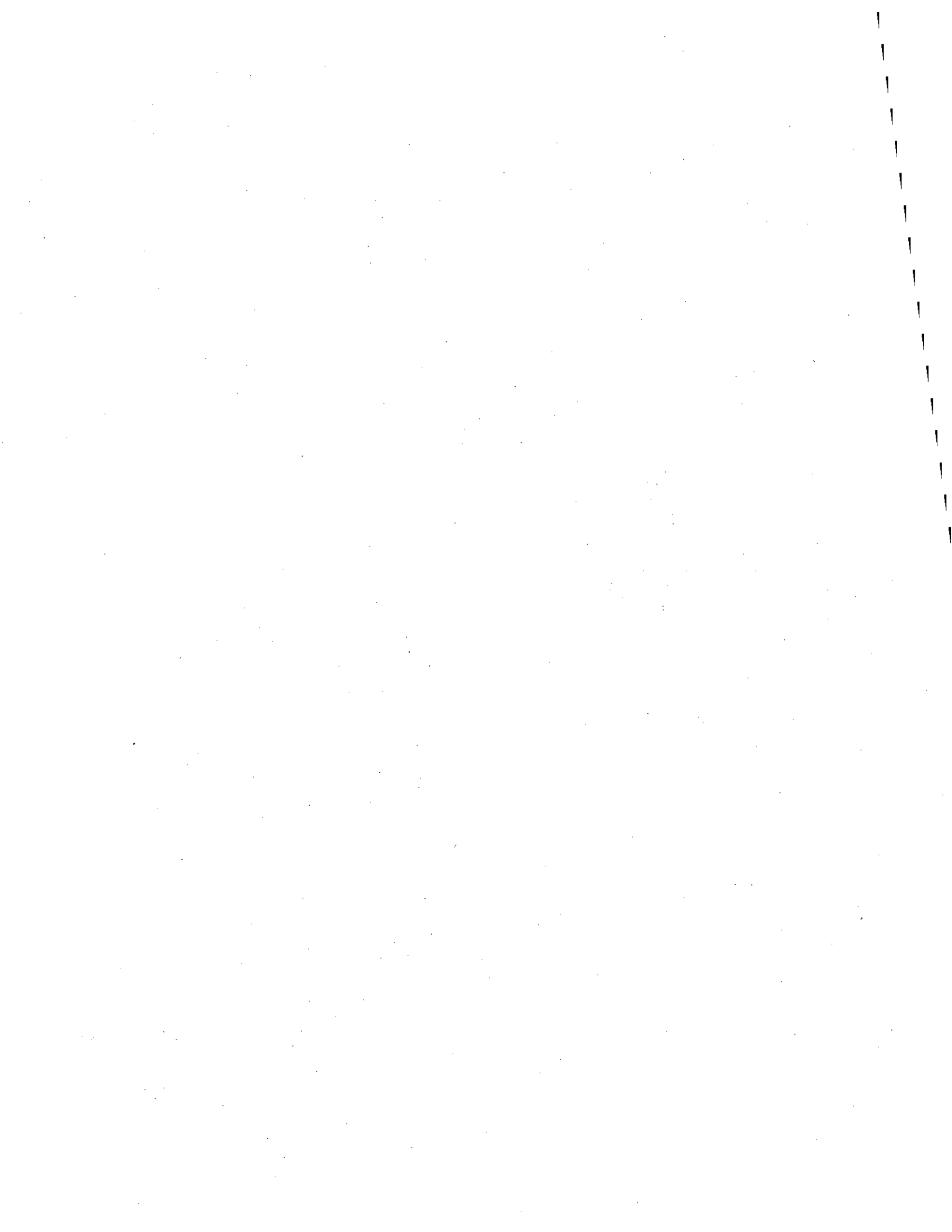
Thank you for considering this request to improve efficiency of monitoring. Please contact Mark Grant of the Sustainable Fisheries Division with any questions.

Sincerely,



John K. Bullard
Regional Administrator

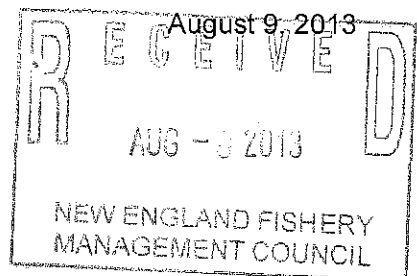
507





1350 Connecticut Ave. NW, 5th Floor Washington, DC 20036 USA +202.833.3900 oceana.org

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



Re: Development of Alternatives in Framework 51

Dear Mr. Stockwell:

Oceana writes to urge the Multispecies Committee to take action at its August 14 meeting to include catch monitoring alternatives in the scope of work for Framework 51 which was initiated in June 2013. These alternatives are necessary to address the chronic weaknesses in the sector catch monitoring program that undermine the success of the Fishery Management Plan(FMP) in meeting its goals and objectives.

Specifically, Oceana suggests that the Council include a range of alternatives to implement full retention requirements in all or part of the Multispecies fishery. With careful development full retention may provide accurate and precise catch data to support the management of this important fishery.

This should be a priority issue for development and consideration in FW51.

Need for Accurate and Precise Catch Monitoring

The primary Accountability Measure (AM) for the sector fishery is a system of sector-specific sub-quotas for each allocated stock under the Multispecies FMP known as Annual Catch Entitlements (ACEs). The administration of ACE allocations to control catch relies on the ability of fishery managers and sector managers to control catch (landings + discards) in each sector and ensure that sector ACEs are not exceeded. This approach requires accurate and precise and timely data streams from shoreside and at-sea monitoring to inform catch monitoring and control. In the initial years of the sector program, catch monitoring reporting was provided by NMFS with the expectation that industry-funded monitoring would be in place for the 2012 fishing year. Because of special circumstances agency funding was extended to 2012 and 2013 by ad-hoc annual agency support.

However, there are two inherent weaknesses in this approach that should be addressed in FW51. First the NMFS-supported catch monitoring program does not and has not yet provided accurate or precise catch information to support the administration of ACE allocations. In fact a large number of ACE allocations have not been monitored with precision and there is a general bias in the data that has been collected in the initial years of the sector program. This lack of monitoring leads to ineffective management and undermines the FMP.

Second, given the uncertainty that is associated with agency funding the Council should not rely on ongoing agency support for these costs. The council should look at more sustainable options to support the sector program for the future.

cc: GFCR, JC, FA, F, DMF

Terry Stockwell
NEFMC Multispecies Committee
August 9, 2013

A robust full retention program may address both of these weaknesses in the status quo monitoring of the sector fishery.

Full Retention-

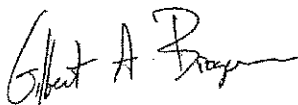
In FW48 the Council began development of a full retention alternative that would require all catch of allocated groundfish to be retained and accounted for by more cost-effective shoreside catch accounting methods¹. While full retention approach showed promise, it had considerable weaknesses that were not addressed in the development of FW48 prior to Council action. In response to this under-developed yet promising approach to catch monitoring the Council deferred action on a full retention alternative and voted unanimously on December 20, 2012 to "adopt or discuss the full retention program in the *next appropriate groundfish action*."²

Oceana agrees that the options developed in FW48 were incomplete in would have been ineffective in providing the catch monitoring needs of the fishery. Oceana looks to the Multispecies committee to continue development of a full retention option in FW51 to provide a long-term sustainable monitoring program for the sector program. This proposal should include direction to the Multispecies Plan Development Team (PDT) to fully address the weaknesses in the FW48 alternative that were discussed in December 2012 and develop safeguards to guard against cheating or violations of the retention regulations.

A well-developed full retention program may be a viable alternative or compliment to robust at-sea monitoring. This alternative approach should receive the attention of the Council in FW51 as a long term solution to support the catch monitoring needs of the NE Multispecies catch share program.

We thank you for your consideration of this important issues and look forward to working with the committee and the PDT to fully develop this alternative.

Sincerely,



Gib Brogan
Oceana
Wayland, MA

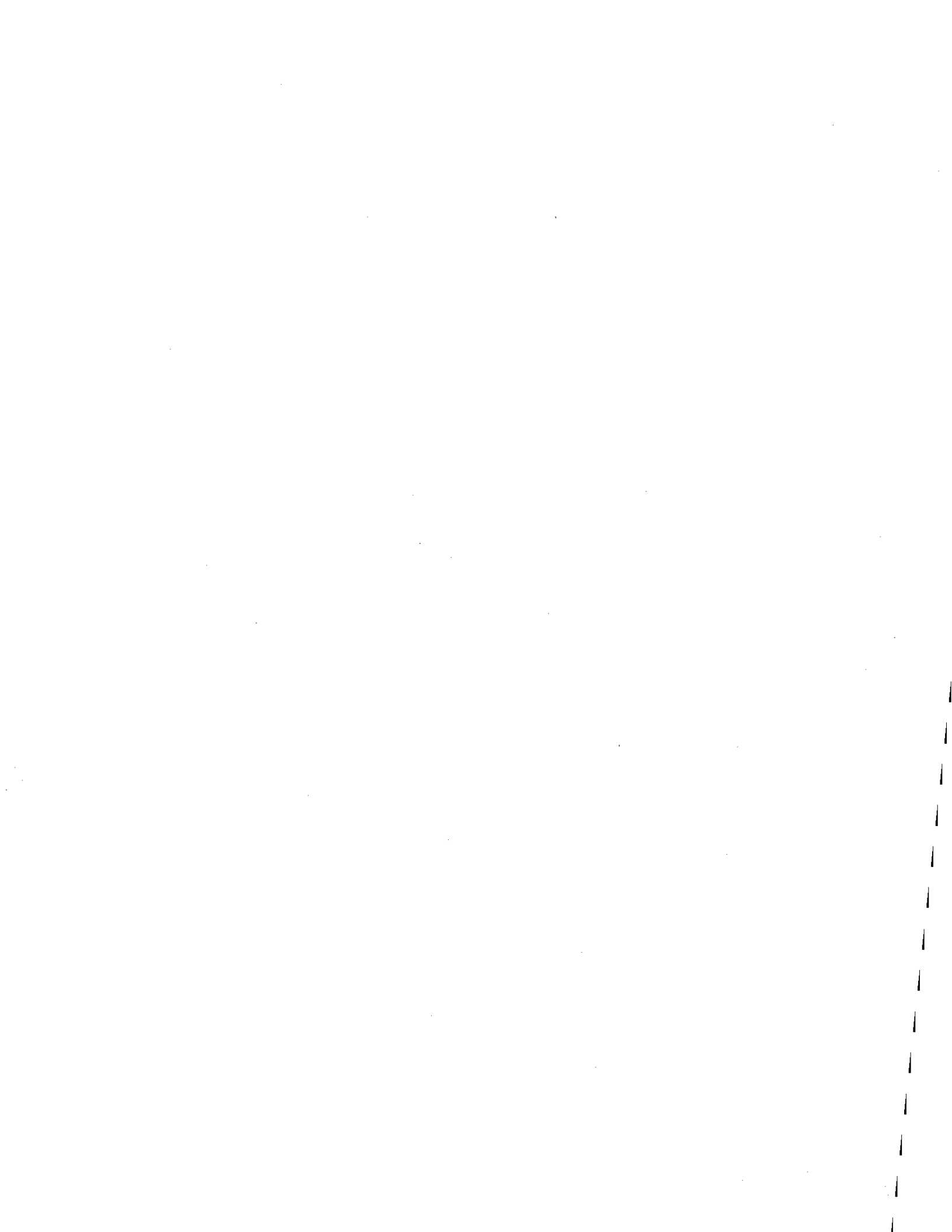
¹ See FW48 Section 4.2.3.3 (attached)

² New England Fishery Management Council Motions, December 20, 2012. Motion # 21, carried 15/0/0.

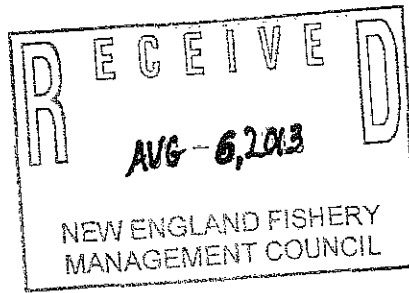
Framework 48 Section 4.2.3.3 Option 3: Full Retention

If this action is adopted all allocated currently regulated groundfish of all sizes, including cod, haddock, white hake, pollock, Acadian redfish, yellowtail flounder, Georges Bank and Gulf of Maine winter flounder, witch flounder, and American plaice, must be retained by sector vessels, i.e. no discarding of non-prohibited fish. Discarding of non-allocated groundfish species, including those that require no-retention as part of a rebuilding program will continue. Allocated regulated groundfish that are physically damaged, e.g. by predation, must be retained. This action would not alter regulated mesh areas or restrictions on gear and methods of fishing. This measure would not change possession requirements for other species that are regulated by other Fishery Management Plans. It should be noted that this change would be made to reduce regulatory discards, not to facilitate targeting of smaller fish. As a result, while sectors would not be prohibited from requesting exemptions from minimum mesh requirements, the expectation is that before such a request would be approved a sector would have to explain why such an exemption would not lead to increased targeting of juvenile groundfish. For example, an exemption request to allow use of square mesh less than 6.5 inches to target GB haddock, or smaller mesh to target redfish, might be approved under certain circumstances because these meshes might not increase catches of small fish. But a request to use a smaller diamond mesh to target haddock might not be approved because, depending on mesh size, it might be expected to increase catches of sub-legal fish.

Rationale: Full retention may help reduce monitoring costs by facilitating the adoption of electronic monitoring, as there would be less of a need to estimate the weight of groundfish discards. The amount of data collected by at-sea monitors required for total discard estimation and composition would also be reduced. Discarding is considered to be a wasteful practice. A portion of discarded fish is thrown back dead resulting in economic loss to fishermen and the needless loss of fish to the population.



91 FAIRVIEW AVE
PORSTMOUTH NH 03801



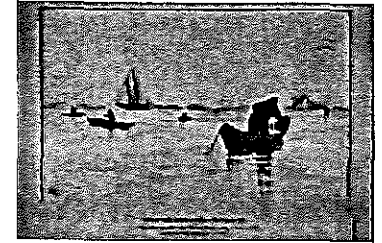
**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

August 4, 2013

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

C.M. "Rip" Cunningham, *Chairman* | Thomas A. Nies, *Executive Director*



Dear Groundfish Committee:

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

We are very pleased that the Council requested that you consider adding our plan to preserve the Handgear Fishery in federal waters into Amendment 18. The NEHFA plan we submitted for Amendment 18 has been carefully developed over 2 years with input from several active Handgear fishermen. We have also had input and meetings with NERO staff in addition to several State Council members. A great deal of time and consideration went into this and we are asking you to move this plan for inclusion in Amendment 18.

In light of what happened recently with haddock where the Handgear fishery was shut down in the common pool, one change we are requesting is that the Handgear fishery needs to be provided its own very small percentage of the Haddock Quotas (maybe 1%?) and Pollock Quota (again maybe 1%). Cod, Haddock and Pollock are the principle fish that we catch and this very small allocation would preserve this fishery for the current active fishermen and for future fishermen. What quota we are asking for is so small that it would be insignificant to the fishery but would mean so much to those who work hard using, Handgear, to catch the fish we do.

There has been some discussions that ask why don't the Handgear fishermen join a sector or form their own sector? We want to keep this fishery simple and managed like the recreational fishery where anyone with a boat can independently go out and catch fish. Sectors have significant costs and rules that do not provide any benefits to our fishery since using Handgear very much limits our catch. Trip limits and size limits along with seasonal quotas for each species is enough for us and keeps the rules very simple and easily managed. In addition trip limits and size limits can easily be duplicated in the state fishery regulations. The intent is to keep this fishery so simple that a 17 year old kid who wishes to start some sort of small scale commercial fishing business can easily start with a boat, some gear and a permit. Does there need to be complicated rules for 1% of the fishery when the fishermen is limited to using a rod and reel or a small tub trawl that was used for generations?

The number of active Handgear fishermen catching groundfish has significantly fallen off as has the catch thru various fishery management plans. If the NMFS and the Council wishes to have a diverse fleet, changes must be made to preserve and rejuvenate this method of fishing as requested above.

There are very few active Handgear fishermen left. The handgear jig fishery was the first in New England and if nothing is done it will be the first to be eliminated.

Respectfully,
Marc Stettner /s/

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

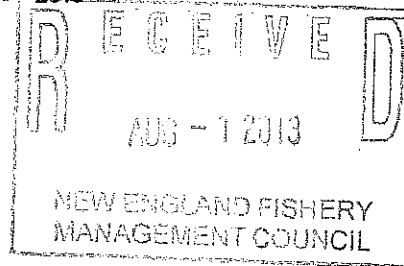
If you are a holder of a groundfish HA permit and wish to join the NEHFA, please contact the NEHFA at the address above.

3



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

JUL 29 2013



Mr. C.M. "Rip" Cunningham, Jr., Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Rip:

As you are aware, the status of white hake has changed and the stock is now determined to no longer be experiencing overfishing, is no longer overfished, and is projected to be rebuilt by 2014. The updated status determination criteria for white hake, based on the recent benchmark assessment for this stock, were approved in the interim final rule implementing Framework 48 to the Northeast Multispecies Fishery Management Plan.

Also, the southern stock of red hake has been determined to not be experiencing overfishing.

These findings, particularly the increased abundance of white hake, should help the Council address the many challenges it faces in maintaining sound management for the many faceted groundfish fishery.

If you have any questions regarding this letter, please contact my staff in the Sustainable Fisheries Division at (978) 281-9315.

Sincerely,

John K. Bullard
Regional Administrator

Cc: Dr. William Karp, Director, Northeast Fisheries Science Center
Emily Menashes, Acting Director, Office of Sustainable Fisheries



cc: Council, FH, JC (8/2)

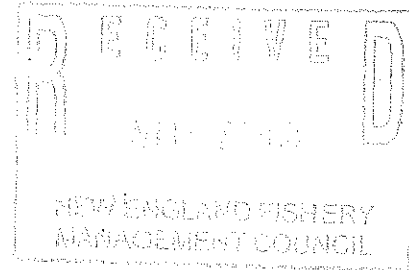


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

August 6, 2013

3

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



Dear Tom:

I am writing to follow up on your letter of May 24, 2013, and subsequent discussions relating to the consideration of ecosystem issues in our stock assessment process. In your letter, you refer to two actions taken by the New England Fishery Management Council at its April 2013 meeting. As you note, these motions are similar in nature to other motions passed by the Council at recent meetings.

In my letter of April 4, 2013, I responded to the earlier Council actions and described work we are carrying out at the Center to develop a process for including ecosystem and climate interactions in the assessment process and evaluating the effect of climate and ecosystem on biological reference points and stock forecasts. I mentioned that I have established a high-level working group to develop a strategy for advancing our assessment capabilities and guide the implementation of the strategy. This group has been meeting regularly since the spring, and I expect to be able to report on their work to the Council at the September or November meeting.

The Council has taken several actions during the last year that signal its interest in moving forward to address the challenges of ecosystem-based fisheries management (EBFM). The Northeast Fisheries Science has a long history of research on the fisheries and marine ecosystems of New England, and we are committed to working with the Council as this process unfolds.

Sincerely,

William A. Karp, Ph.D.
Science and Research Director

cc: C. Moore, MAFMC
J. Bullard, NER



cc: Council, PMF, SC, RF, FH (9/18)





3

New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C. M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

May 24, 2013

Dr. William Karp
Science and Research Director
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

Dear Bill:

I am writing to convey two requests from the New England Council.

On April 24, 2013, the Council passed the following motion:

"{To} request that the Council send a letter to NEFSC to: 1. establish a research track to map changes to spawning sites and general distribution of all groundfish and explore what these changes mean to long term yield from the fishery; and 2. that ecosystem reference points be a term of reference in all future groundfish assessments."

The motion **carried** unanimously.

The Council also passed a related motion:

"{The Council} request{s} that the appropriate group (SSC or NEFSC) initiate calculations for a new set of groundfish reference points for the current regime. Once these calculations are complete, have the SSC calculate new ABCs and ACLs as the new reference points become available."

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

These two new motions are similar in nature to other motions approved at previous Council meetings. For example, in January the Council asked for new reference points for several groundfish stocks in light of changes to predator/prey relationships and changing environmental conditions, a request you responded to on April 4, 2013. The consistent theme in these motions is a sense that a broader consideration of ecosystem issues is needed in our assessment and management system. Clearly you are sensitive to this concern and I look forward to working with you to incorporate it into our process.

The Council appreciates that the NEFSC has been tasked with several other Council requests, such as cod stock structure, investigation of mixing rates between haddock stocks and a scallop survey peer review. Please let me know if I can help prioritize your responses to these requests.

Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Nies".

Thomas A. Nies
Executive Director

cc: Mr. John Bullard, Regional Administrator, Northeast Region
Dr. Jake Kritzer, SSC Chair



Paul J. Diodati
Director

Commonwealth of Massachusetts

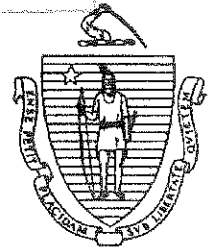
Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

fax (617)626-1509



Deval Patrick
Governor

Richard K. Sullivan,
Jr.

Secretary

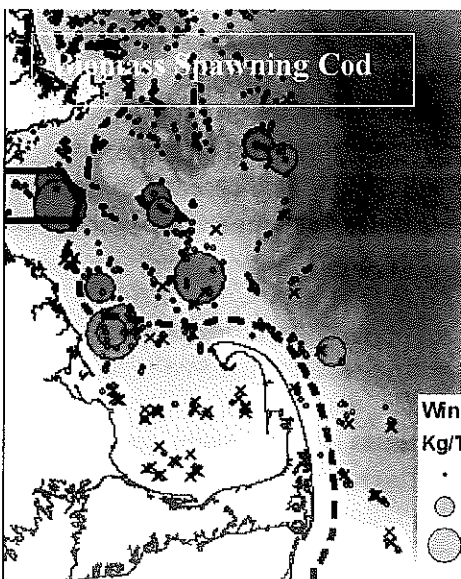
Mary B. Griffin
Commissioner

MEMORANDUM

TO: Tom Nies, Executive Director
FROM: David Pierce, Ph.D., Deputy Director
DATE: August 28, 2013
**RE: GULF OF MAINE COD: FURTHER RESEARCH INTO SPAWNING
 CONDITION AND LOCATION OF LATE-FALL & WINTER
 SPAWNING AGGREGATIONS**

Gulf of Maine (GOM) cod continues to be of utmost importance to DMF, GOM fishermen, and, of course, the NEFMC. With our having to adjust the rebuilding schedule for GOM cod and with our likely having to endure ACLs of 1,470 mt in 2014 and 2015, possibly rising to 2,900 mt in 2016 (Table A5 Groundfish PDT memo to SSC August 9), continued loss of GOM cod localized spawning areas/aggregations all but ensures status quo poor resource conditions and very poor future prospects for fishermen. I wager the 1,470 mt or so will continue well beyond mid-decade with likely below average to low recruitment.

Therefore, I submit that the Council June decision to wait for some future action to protect late-fall/winter spawning cod in those areas where they aggregate with remarkable fidelity is ill-advised. The Council's decision is somewhat understandable,



however, because information on which we have relied to describe late-fall/winter spawning hasn't been compelling *except* for DMF years' of research on winter spawners and our GOM IBS work providing spawning condition. I don't understand why this information hasn't been convincing enough for the PDT and CATT.

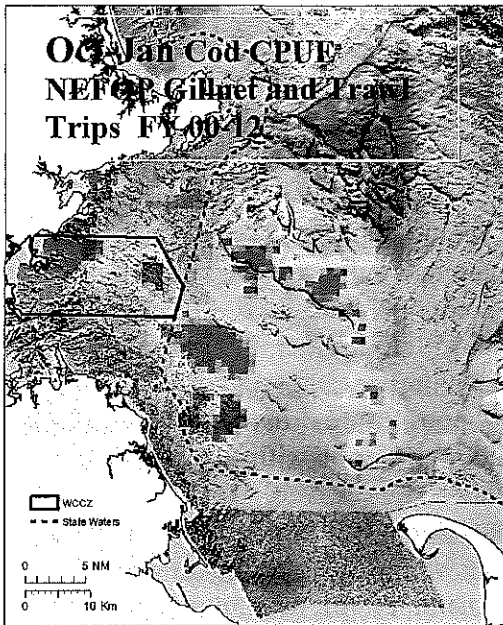
Once again I highlight: (1) the paper: "*The application of small-scale fishery closures to protect Atlantic cod spawning aggregations in the inshore Gulf of Maine*" by Armstrong et al. (including Nies) in which the Massachusetts Bay winter cod conservation zone is described (November 15 through January 31) [Fish. Res. 2012]; (2) the paper

GC, AF, FH, JC, HB, DPF (9/6)

“Disruption of an Atlantic cod spawning aggregation resulting from the opening of a directed gillnet fishery” by Dean et al. [N. Am. J. Fish. Manage. 2012]; and (3) the 2005 DMF Report *“Industry-Based Survey for Gulf of Maine Cod Pilot Study”* by Hoffman et al. Consider the above figure showing IBS-caught spawning cod from November through February. How could this information not be influential at PDT and CATT meetings? I previously reminded Council staff of this work and its implications.

Now we’re left with GOM seasonal cod spawning areas, reliance on sector rolling closures that fail to include important winter protection, and Massachusetts Cod Conservation Zones (CCZs). Therefore, the Council only has: (1) April-June closures affecting sectors and that roll from south to north; (2) Whaleback; and (3) DMF state-waters’ winter and spring CCZs. Consequently, sector vessels unrestrained by trip/possession limits and with leasing opportunities have free reign throughout federal waters of Massachusetts Bay in the fall and winter.

I appreciate the Council decided to address other spawning area closures in the “next appropriate groundfish action,” and they will be a “frameworkable item in the omnibus amendment.” But will that ever happen? Cod IBS data, observer information, and fishermen-provided insights give us an inshore spawning “picture” many fishermen will find unattractive and offensive because cod spawning areas and times are where and when fishermen’s recent years’ GOM cod CPUE have been highest (just south and east of DMF’s winter CCZ continuing south to off the Scituate area).



Setting aside for the moment my misgivings about the Council postponing any further protection of GOM cod during the late-fall and winter, I call your attention to cod spawning research and monitoring DMF is planning for this fall with Sector X fishermen,

SMAST researchers, Sanctuary staff, NEFSC Acoustic Research Group and Christopher McGuire of the Nature Conservancy. Scheduled to begin perhaps as early as October we intend to tag cod with acoustic tags and monitor their movements with an acoustic telemetry array. Observers will obtain maturity and sex ratio information and passive acoustic recordings will be analyzed for cod grunts density. A detailed research plan is being developed, and I will share it with you as soon as it is completed and DMF and the Conservancy are ready to issue a news release.

In January 2012, I prepared a White Paper on *“Gulf of Maine Cod: SARC 53 Assessment and its Implications.”* My continued concern about protection of spawning cod and our research that will begin in about a month is a logical extension of that concern. I provide it to you again (see pages 9-14).

I’m hopeful GOM cod will reappear on Massachusetts Bay spawning grounds this fall and winter. Some fishermen doubt that will happen due to recent years “heavy fishing:” 24 hours plus in inshore areas to capitalize on cod aggregations and high CPUE.

Some fishermen believe cod will return and their absence is temporary. Time will tell I suppose. In the meantime, we wait for M to drop from 0.40 to 0.20, so the assessment advice goes. Then again, what happens if it stays high, and how will we know? If it stays at 0.40, then we cannot rebuild the stock (assessment conclusion). If that's the case, then the argument for more spawning cod protection strengthens even more.



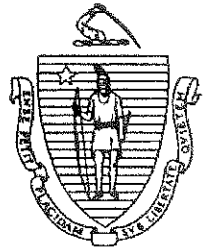
Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400
Boston, Massachusetts 02114

(617)626-1520
fax (617)626-1509



Deval Patrick
Governor

Richard K. Sullivan,

Jr.

Secretary

Mary B. Griffin

Commissioner

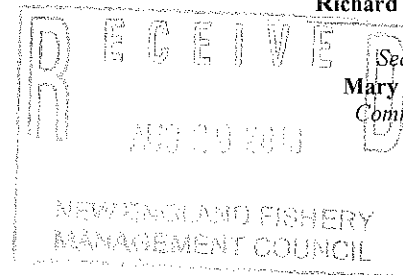
MEMORANDUM

TO: Tom Nies, Executive Director

FROM: David Pierce, Ph.D., Deputy Director

DATE: August 29, 2013

RE: *GULF OF MAINE COD: PROTECTION OF LATE-FALL & WINTER SPAWNING AGGREGATIONS*



Thanks for your response to my memo regarding my continued concerns about lack of protection for late-fall and winter cod spawning aggregations found in the inshore Gulf of Maine. You gave me a good reason to review the record and to revisit the many CATT analyses pertaining to possible closures to protect spawning groundfish.

I understand why you took exception to my comment about why DMF's years' of research on winter spawners and our GOM Industry-Based Survey (IBS) work providing [cod] spawning condition wasn't "compelling and convincing enough for the PDT and CATT." You were quite correct in noting that the CATT in April provided a figure (page 100 of CATT presentation) showing winter grids and spawning areas with only one being found east of Scituate straddling the state/federal boundary line. I should have been clearer with an emphasis on the cod IBS data.

My point was that late-fall and winter cod spawning (November through January) occurs outside of state waters and adjacent to DMF's Winter Cod Conservation Zone (off Boston and extending to the state/federal boundary). The figure on page 100 doesn't fully reflect the IBS survey work in state and federal waters that determined late-fall/winter spawning condition of cod in state and federal waters.

Committee discussions in April and at every other meeting regarding habitat and spawning protection have encompassed far more issues than spawning protection for cod. One hundred and twenty-one pages of tables and figures testify to the complexity of the discussions and decisions and the admirable job done by staff including the "Spawning Literature Summary Table" that depicted in Map 2 of Figure 3 major cod spawning aggregations during November – January in federal as well as state waters.

Where do we go from here? One possible spawning protection alternative based on existing data, observer information, and fishermen's insights might include all federal

waters south and west of a line extending from the DMF Winter CCZ eastern boundary to the state/federal boundary north of Cape Cod Bay (Figure 1).

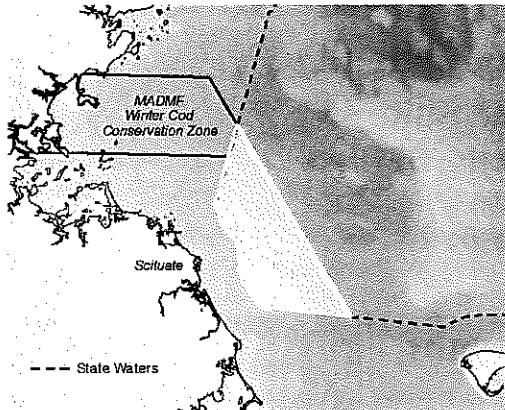


Figure 1. Proposed winter spawning management area for inclusion in Omnibus Habitat Amendment 2.

As I noted in my previous memo, except for areas on Stellwagen Bank, October-January cod CPUE was high in the proposed management area. Eventually the Council will have to deal with this effort on spawning cod. Of course, many fishermen see the wisdom of not targeting spawning cod.

I close by touching on process and timing. With GOM cod stock status being what it is, timely spawning protection measures may prove vital not just to rebuilding but overall fishery sustainability. Delaying implementation of measures based on existing data to a future framework leaves critical cod spawning sub-populations vulnerable to concentrated effort

into the 2015 fishing year and perhaps beyond. Targeted action in Omnibus Habitat Amendment 2 will allow for necessary protections to be in place hopefully by the next fishing year, mid-October 2014, in time for winter cod spawning.

Thanks for your attention to this important matter.



Paul J. Diodati
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

fax (617)626-1509



Deval Patrick
Governor

Richard K. Sullivan, Jr.
Secretary

Mary B. Griffin
Commissioner

TO: Marine Fisheries Advisory Commission
FROM: David E. Pierce
DATE: January 11, 2012
RE: Gulf of Maine Cod: SARC 53 Assessment & Its Implications

The Council must deal with a potentially devastating blow to the vitality of the New England groundfish fishery and an unplanned and unacceptable restructuring of the fishery. We are in the second fishing year of Amendment 16 implementation with the experience of large-scale groundfish sector management superimposed on hard quotas for every groundfish stock with discards (real and assumed) tallied against those quotas. The



The Council faces a dramatic reversal of the status of Gulf of Maine (GOM) cod [Note: cartoon does not reflect my opinion, but was offered recently to readers of Cape Cod Times.]

Expecting 2012 to mark further substantial progress towards rebuilding GOM cod to the Council's spawning stock biomass (SSB) target with fishing mortality below the overfishing level, the November 2011 SARC revealed a nightmare scenario that if played out could remove GOM cod from

commercial and recreational fishermen's allocation portfolios. The result: a crippling of the GOM groundfish fleet and far fewer recreational fishing opportunities for cod.

The Council's Executive Committee has instructed its SSC to take a fresh look at the assessment and scientific information not considered – or at least not emphasized – at SARC 53. The Council will use this information and SSC conclusions to revise downwards the GOM cod acceptable biological catch (ABC) and annual catch limit (ACL) for fishing year 2012 beginning May 1. Apart from the obvious and alarming socioeconomic impacts of the GOM cod assessment (see below), DMF questions whether reducing the severity of the cut in GOM cod catch for 2012 – prescribed through SARC 53 – will jeopardize the stock especially if current fishing patterns continue, i.e., fishing on pre-spawning and spawning aggregations with no restriction on catch except for sectors' GOM cod ACEs that may not be effectively monitored at sea, or even in port.

Problem Statement:

Assessments

- (1) The 2011 Gulf of Maine cod assessment (SARC 53) revealed that the 2005 year-class strength was overestimated by an astonishing amount. Thought to be strong when last assessed at GARM III (Groundfish Assessment Review Committee) in 2007 (24 million age 1 fish), this year-class now appears to have been about 5 million fish. Year-class strengths are almost exclusively derived from bottom trawl surveys.
- (2) According to SARC 53, other factors contributing to an overestimation of stock size in 2007 (such as new values for weight-at-age, use of Bigelow for surveys, and high 2010 recreational catch) have had far less influence than the strength of the 2005 year-class.
- (3) In 2007 (GARM III) the Council was informed that SSB was at 33,877 metric tons and fishing mortality on ages 5-7 (reference ages) was 0.46 (about 33% removal of stock). Now, through SARC 53 the Council learns that looking back in time SSB in 2007 actually was 10,714 mt and fishing mortality was 0.68 (45%). Therefore, the Council acted on too-optimistic assessment information.
- (4) Using another assessment technique (ASAP, not VPA), NEFSC has informed us that in 2010 SSB was just 11,868 mt. A new SARC 53 target SSB is 54,247 mt, and the threshold defining overfished is 27,124 mt. Therefore, we are far below the threshold and cannot rebuild to the target before the deadline of 2014.
- (5) F (ages 5-7) in 2010 was estimated to be 1.11 (62% annual removal of GOM cod stock). F now appears to be historic highs. $F = 0.23(18\%) = \text{overfishing}$
- (6) The assessment concluded that there are two recognized stocks: Gulf of Maine and Georges Bank with "limited" mixing. The GOM stock complex extends from the northern tip of Cape Cod east to the US/Canadian border and north to the coast of Maine.

Management implications

- (1) SARC 53 spawning stock biomass (SSB) projections run with three different assumptions for fishing mortality: $F_{\text{MSY}(F_{35\%})} = 0.23$, $F_{75\%F_{\text{MSY}}} = 0.17$, and $F = 0$ zero indicated that under even the most optimistic scenario for rebuilding ($F = 0.0$ with no adjustment for retrospective patterns), GOM cod cannot rebuild to SSB_{MSY} by the current rebuilding date of 2014.
- (2) In hindsight, allowable catches in fishing year 2011 were too high and will not be reduced for the remainder of fishing year 2011 (i.e., January - April 30, 2012).
- (3) Sector GOM cod Sub-ACL for FY 2010 is 4,327 mt, but could be as low as 401 mt in FY 2012. Common Pool Sub-ACL could be reduced from 240 mt to 9 mt.
- (4) Recreational Sub-ACL could be reduced from 2,673 mt to 314 mt.
- (5) State waters (non-federal permit holders) catch could be set at 66 mt (reduced from 566 mt).

Economic impacts

- (1) At a minimum (NEFMC preliminary analyses) change in groundfish revenue by state relative to FY 2010 would be -91% (NH), -54% (ME), and -21% (MA) although impacts to specific ports would be more severe (e.g., Gloucester -60%).
- (2) Vessels most affected would be 30-50 feet.

- (3) Impacts to the following sectors would be significant and severe judging from GOM cod revenues as a percent of total revenues (groundfish trips only): Port Clyde (36%), NEFS 2 (30%), NEFS 3 (60%), NEFS 10 (35%), NEFS 11 (46%), NEFS 12 (77%), and NCCS (40%).
- (4) Sixty-three (63%) percent of GOM party/charter vessels earn nearly all (greater 90%) of revenue on groundfish trips with private recreational vessels accounting for 60-80% of recreational catch.

Moving forward:

- (1) In an October 14, 2010 letter from Secretary of Commerce Gary Locke to Congressman Barney Frank the Secretary said: *“You asked if I had emergency authority to increase catch limits due to economic conditions. Section 305(c)(1) of the Act grants the Secretary of Commerce the authority to ‘issue an emergency regulation or take interim measures to address an emergency or overfishing...’ Under the NOAA policy applying this authority, I may take economic factors into account in determining whether to promulgate an emergency rule so long as those factors are based on ‘recent, unforeseen events or recently discovered circumstances’ (emphasis added). In addition, pursuant to the Act, any exercise of the authority must be based on the best scientific evidence available that indicates doing so will not undermine the conservation mandates of the Act and any action must give priority to conservation measures. See NRDC v. Daley, 209 F.3d 747 (D.C. Cir. 2000)”* This letter with its reference to NRDC v. Daley indicates that the Secretary can act by considering economic factors relevant to the expected precipitous drop in the GOM cod ACL for May 1, 2012 because SARC 33 results were completely **“unforeseen” and “recently discovered.”** However, “new” science must be available enabling the Secretary to adequately deal with Act “conservation mandates.” Of importance, according to Secretary Locke, “I am prepared to issue an emergency regulation to revise catch limits whenever there is both sufficient economic and sound scientific data available to meet these requirements...” (emphasis added).
- (2) Current economic performance and economic outlook for the multispecies fishery are both poor. Primary sources of economic data and insights making this case are:
 - a. “Break-Even Analysis of New England Groundfish Fishery for Fishing Years 2009 and 2010,” November 14, 2011 [Collaborative work between the Commonwealth’s Division of Marine Fisheries, NOAA Fisheries, and the University of Massachusetts School for Marine Science and Technology (SMAST)]:
 - i. This collaboration to evaluate the financial performance of the multispecies fishery revealed that fewer vessels (289 v. 374) participated in the groundfish fishery in FY 2010 than in 2009, and large numbers and percentages of those vessels in both years did not break even. For example, out of 289 vessels in FY 2010 only 167 vessels (58%) were above break-even (including sector costs but excluding consideration of all overhead costs such as costs of leasing ACE).

- ii. In FY 2010 break-even differences between vessel categories revealed: for trawlers less than 50 feet (58 vessels), 50% broke even; for trawlers greater than 50 feet but less than 65 feet (63 vessels), 54% broke even; and for trawlers greater than 65 feet (111 vessels), 56% broke even. Therefore, large percentages of large and small vessels of all gear types did not break-even meaning vessels costs exceeded revenues. These percentages are conservative estimates because all overhead costs couldn't be included. Moreover, although vessels may have broken even, they may not have been profitable. Absent necessary data, profitability could not be determined in this break-even analysis.
 - iii. Of note, Dr. Jane Lubchenco in her October 3, 2011 written testimony on New England groundfish management provided to the U.S. Senate's Committee on Commerce, Science, and Transportation, that the break-even analysis revealed "*while a number of fleet segments performed better in 2010 relative to 2009, some segments did perform worse, including some of the smaller boat segments. NMFS is concerned about the impacts on these small boats and will continue to work with the Council to understand the root causes of the negative outcomes and identify corrective actions.*" Unknown to her at the time, the final analyses revealed an "across-the-board" inability of about 50% of all vessels to break-even in 2009 or 2010 with perhaps far more than 50% likely not being profitable and viable unless capable of entering or intensifying their effort in other fisheries
- b. "Comparative Economic Survey and Analysis of Northeast Fishery Sector 10 (South Shore, Massachusetts)," November 2011 [DMF analysis in collaboration with SMAST, NOAA Fisheries, and Sector 10 fishermen]:
- i. Severe economic losses occurred in this sector largely due to transition to catch shares. From 2009 to 2010 this sector's groundfish landings declined 61%, and groundfish net revenue declined by 52%. Thirty percent (30%) of Sector 10 permit holders lost at least 80% of their net groundfish revenue, totaling \$301,000. Fifty-two percent (52%) lost at least half of their revenue as compared to 2009 totaling \$667,000.
 - ii. Crew pay decreased by 33% with 22% less crew members
 - iii. Five (5) permit holders lost 90% or more of their net revenue from groundfish trips; 5 permit holders lost 70-90%; 4 permit holders lost 50-70%.
- c. "2010 Final Report on the Performance of the Northeast Groundfish Fishery (May 2010 – April 2011)," October 27, 2011 [NOAA Fisheries Social Sciences Branch, NEFSC]:
- i. Concluded that "*groundfish industry obtained more value from fewer fish landed and less fishing effort expended... Estimates of the average vessel owners' net and gross revenues increased for groundfish vessels in all size classes, owing largely to higher*

prices for fish...study also showed the continuation of trends begun during the last decade of fewer, more efficient fishing operations and declining number of active boats." NEFSC found higher average owners' net revenue per day on groundfish trips [Note: authors did not consider the shift from days-at-sea management in FY 2009 with restrictive trip limits to sector management in FY 2010 with no trip limits. A lack of limits [and higher prices for fish] is *expected* to increase average revenue per day on groundfish trips (i.e., misleading "per day" reference).

- ii. Concluded that in 2007-2009 20% of vessels captured about 68% of groundfish gross revenues, but in 2010, 20% of vessels captured nearly 80% of groundfish gross revenues.
 - iii. The groundfish fleet caught just 38% of fish allocated for 2010 catch. Sixty-two percent (62%) was left uncaught due to unavailability of fish in certain local areas, fishermen's difficulties in balancing annual catch allocations, lack of capital to purchase annual catch allocations, and inability to target certain species while avoiding others.
- d. "Preliminary Potential Sector Contribution Ownership (emphasis added) Data," June 7, 2011 [Complied by NMFS with summary of PSC prepared by NEFMC staff]: The manner in which ACLs were allocated to fishermen (e.g., catch history from 1996-2006 excluding recent years of 2007-2009) "permanently" gave ownership of many stocks to relatively few individuals and "business entities." For example, *before* considering leasing outcomes and resulting in-year PSC redistribution, we find that the top three "business entities" (more than one individual with an ownership interest in a single permit) have PSC ownership of 23.8% of Georges Bank cod, 31.3% of Georges Bank haddock, and 36.5% of Georges Bank winter flounder. The top 10 "entities" own 27% of GOM cod, 45% of GOM haddock, 29.5% of CC/GOM yellowtail flounder, and 28.6% of GOM winter flounder. Giving ownership of large quantities of groundfish stocks to relatively few individuals means economic opportunities for other fishermen with lesser allocations are much reduced (especially with low ACLs and "choke" stocks) and only can be increased through quota leasing from the "haves" and at a price.
- (3) The Commonwealth's Marine Fisheries Institute (MFI) produced a November 1, 2010 report entitled: "A Report on Scientific and Economic Information that Supports Increases in Multispecies Groundfish Annual Catch Limits." The MFI's conclusions at the direction of the NEFMC were reviewed by the Council's Scientific and Statistical Committee (SSC). The SSC recognized the MFI Report raised issues in need of additional scientific work. The SSC recommended: "*The Council should consider additional social and economic information in the development of ABC control rules and in setting ABCs (rather than relegated to secondary impact analyses). Such an evaluation would also identify potential problems of misspecification or inconsistencies in the Guidelines [for National*

Standards]. While this is a significant research undertaking, it is both critically important and achievable (emphasis added)."

- (4) The need for additional "sound scientific data" identified by the Secretary of Commerce (see #1 above) must be satisfied. To that end we have the MFI being asked by Senator John Kerry and Governor Deval Patrick to contribute towards a new assessment or understanding of the status of GOM cod.
- (5) Likely outcomes of the requested GOM cod assessment triggered by SARC 53 results that were completely "**unforeseen**" and "**recently discovered**:"
 - a. Models – ASPIC versus ASAP: We have the paper, "The End of Overfishing?" by Rothschild and Jiao (Draft November 22, 2011) in which the authors conclude – using an ASPIC assessment approach (having fewer parameters than the SARC 53 approach) – that GOM cod is not overfished and is at a relatively high level of abundance. These authors compute F_{MSY}/B_{MSY} compared to $F_{40\%}/B_{40\%}$ (GARM III Report) and conclude the latter proxy statistic is biased relative to the former and ASPIC statistics. They conclude that the ASPIC statistics are better than the proxy statistics. Are the authors' correct? Is ASPIC a suitable alternative of equal value to ASAP? According to the GARM III proxy, the GOM stock is overfished and overfishing is occurring while the reverse is true for ASPIC calculations.
 - b. Stock structure and intermixing:
 - i. We should focus on stock structure and the current assumption that exchange between stocks is limited. The SSC recommended at its April 12, 2011 meeting: "*There should be a comprehensive evaluation of scientific information on cod population structure and its management implications, including the possibility of revising management units...*" Although the SSC recommended this topic be a priority for the NEFMC "research track" and be taken into account in the next management cycle beginning with the 2014 fishing year, the frenetic debate about GOM cod dictates its immediate consideration.
 - ii. Does the Working Paper written by Loehrke and Cadrin in 2007 for GARM III stand or does new tagging information question some of their results and conclusions (A review of tagging information for stock identification of cod off New England).
 - iii. How can the tagging and movement results reported to the NEFMC Research Steering Committee on October 25, 2006 (i.e., cooperative work with fishermen Goethel, Bouchard, Mirarchi, Balzano, and Ford) be reconciled with the SARC 53 assumption about "limited exchange?" These tagging results (including those from the NE Regional Cod Tagging Program) don't appear to have been used to support or refute the claim of "limited exchange."
 - iv. There is a need to consider the paper "Atlantic Cod Stock Structure in the Gulf of Maine" by Ted Ames [Fisheries (29:1) January 2004] who characterizes GOM historical cod grounds, identifies essential habitat for cod, determines long-term productivity on

historical cod fishing grounds, evaluates 1920s seasonal distribution, identifies seasonal movements of 1920s cod, the separation of inshore and offshore populations, and describes historical cod migrations in the GOM.

v. Consideration of the 2010 paper “Fine-scale spatial and temporal genetic structure of Atlantic cod off the Atlantic coast of the USA” by Kovach, Breton, Berlinsky, Maceda, and Wirgin in *Marine Ecology Progress Series* (410:177-195) is warranted.

1. With “GOM” cod possibly being a southern complex consisting of a winter-spawning inshore GOM, offshore GOM, and sites south of Cape Cod (all genetically differentiated from a Georges Bank population), have years of less-restrictive regulations affecting fisheries east and south of Cape Cod inadvertently impacted “GOM” cod contributing to recent high fishing mortality (2010 $F_{ages\ 5-7} = 1.11$)?

2. These authors concluded: “...*the Georges Bank population is divergent from the southern New England and perhaps New York Bight populations, with which it currently is grouped for management purposes. The southern New England populations maintain connectivity with the winter-spawning inshore GOM population and both spring- and winter-spawning offshore populations of the GOM...*”

3. Once NOAA Fisheries “assesses” the “Georges Bank” stock in January, if we discover that stock also is in poorer shape than expected and F is high, what will be implications of that determination on “GOM” cod if the Kovach et al. conclusions are accepted? Will it support the argument of “**unforeseen and recently discovered?**”

4. Importantly, according to Ruzzante, Taggart, and Cook in their 1998 paper “A nuclear DNA basis for shelf and bank-scale population structure in northwest Atlantic cod (*Gadus morhua*): Labrador to Georges Bank (Molecular Ecology 7:1663-1680), “...*incorrect assumptions regarding genetic structure, or exploitation patterns that ignore structure can easily lead to overexploitation patterns and erosion of genetic resources via depletion of the constituent spawning components...*”

vi. Consideration also is warranted for the paper, “Ecological and management consequences of a mismatch between biological and management units of Atlantic cod in U.S. waters” by Kerr, Cadrin, and Kovach.

1. These authors contend: “...*Monitoring of both the northern and southern spawning groups would be necessary to ensure maintenance of biocomplexity and a conservative harvest approach would be needed to account for the*

apparent lower productivity of the northern spawning group.”

2. *“Restricting fishing on spawning grounds during the spawning season would be a useful management tool to ensure there is not depletion of unique spawning components...”*
 3. Quoting other authors, they say: *“Reduction in biomass of spawning groups can reduce connectivity, and potentially destabilize local and regional populations. In extreme cases, overfishing may lead to local extirpation of a spawning group and loss of diversity within the regional population. On ecological time-scales, the loss of diversity of spawning groups can result in less stable regional population dynamics, and on evolutionary time-scales it can limit the ability of a species to adapt to changing environmental conditions...”*
- vii. Changing environmental conditions may have influenced stock structure and intermixing including overall distribution patterns. What has changed and to what extent? Do we have North Atlantic Oscillation (NAO) considerations regarding stock movement and status relative to established targets?
1. Is there any relevance to GOM cod of findings from the paper, “Impacts of interannual environmental forcing and climate change on the distribution of Atlantic mackerel on the U.S. Northeast Continental Shelf” (2011) by Overholtz, Hare, and Keith (Marine and Coastal Fisheries 3:1).
 2. Similarly, relevance of “Long-term trends and regime shifts in sea surface temperatures on the continental shelf of the northeast United States” (2007) by Friedland and Hare (Continental Shelf Research 27).
 3. Then there’s “Do environmental factors affect recruits per spawner anomalies of New England groundfish” (2005) by Brodziak and O’Brien (ICES Journal of Marine Science 62) in which the authors estimated effects of the NAO on recruits per spawner for GOM cod and other stocks.
 4. Also, there’s “Cod recruitment is strongly affected by climate when stock biomass is low” (2005) by Brander (ICES Journal of Marine Science 62) who focused on European cod stocks and NAO effects. He concluded that environmental variability represented by the NAO only has a significant effect on recruitment when spawning stock is low.
 5. Moreover, there’s “Changing spatial patterns of fish stocks in relation to climate and population size on the Northeast United States continental shelf” (2009) by Nye, Link, Hare, and Overholtz (Marine Ecology Progress Series 393).

- a. They described the influence of the NAO (and AMO index) and concluded that GOM cod increased its depth of occurrence in the Gulf of Maine.
- b. They believed, “...*deep-water sedentary fish, particularly those in the Gulf of Maine, may not adjust their spatial distribution in response to warming, but may experience greater changes in **growth, reproduction, and recruitment** (emphasis added) than those fish that have shifted their distribution.*”
- c. 2005 year-class: SARC 53 results indicated the 2005 year-class re-estimation was the primary cause for the very pessimistic GOM cod status and projections, and almost all the information available on this year class was from survey data. Of note, according to Dr. Chris Legault (NEFSC scientist and SSC Chairman), “*a single [two], anomalous large tow in two consecutive years contributed towards the perception (emphasis added) that the 2005 year class was substantial. Subsequent survey and fishery observations during 2008-2010 indicated that the 2005 year class was far less abundant than estimated, and is only of average size (Table A.59).* This outcome suggests great care should be used in biomass projections. It should cause us to question assumed strengths of other year-classes subsequent to 2005. For example, do recreational catches in recent years suggest greater year-class strengths than cited at SARC 53 (Tables A35 and 37). Furthermore, why in 2007 were the Council and SSC confident about the 2005 year-class despite its strength being based on two “anomalous tows.”

(6) Reasons for caution.

- a. Stock status history: GOM cod SSB has fluctuated around 10,000 mt since 1980, only being slightly about 20,000 mt in 1980 and 1990 with the 1990 “peak” being caused primarily by the strong 1987 year-class. Fishing mortality is now as high as it was from 1981-1984 although lower than F from 1992-1994. With this past history (last 30 years) of SSBs and Fs, what is the real potential for achieving the SSB target of 54,257 mt and/or F_{MSY} of 0.23 shy of prohibiting cod catch/landing for many years? This question is particularly relevant with confidence in our ability to accurately assess year-class strengths now appears to be very low (i.e., 2005 year-class prediction snafu). SSB in 2010 has been assessed at 11,868 mt.
- b. Shock and Aw(e)ful: Even though earlier projections had GOM cod SSB at the target by 2014, perhaps the awful shock of SARC 53 is simply a revisiting of stock conditions experienced in 2000 and a “wake-up” call for the Council. Recall that in December 2001 the Council on a vote of 9:8 rejected Framework 36 that would have dramatically cut F on GOM cod. For GOM cod a 63% reduction in F would have been required meaning a 24% reduction in catch (commercial and recreational landings

and commercial discards). The needed F reduction was revised to 79% (55% reduction in catch) relative to 2000 when total catch was about 5,877 mt: 3,730 mt commercial landings, 11,147 mt recreational landings, and 1,000 mt commercial discards). FW 36 likely target 2002 landings were about 3,062 mt. Recreational landings were to be restrained to only 673 mt. Does this repeat of 2000-like stock condition suggest that 2010 stock status should have been expected?

- c. Judge Kessler 12/28/2001 decision: Recall that Judge Gladys Kessler (U.S. District Court for the District of Columbia) decided that *“Plaintiffs [Conservation Law Foundation, Center for Marine Conservation, National Audubon Society, and National Resources Defense Council] have shown that Defendants [Secretary of Commerce, NOAA, and NMFS] have not complied with the Sustainable Fisheries Act. Specifically Framework 33 violates overfishing, rebuilding, and bycatch provisions of the SFA, while Amendment 9 violates bycatch provisions of SFA...”* She stated: *“Given their record of inaction and delay, Defendants have not carried out their burden of showing that they will remedy their ongoing violations of SFA...Defendants had a statutory duty to come into compliance with the SFA by February 1999. It is now almost three years later, and defendants have yet to comply with the statute...In its Opposition, Defendants had indicated to the Court that Amendment 13 would be implemented by fall 2002. However, on November 30, 2001, Defendants advised the Court that their timetable had fallen yet another year behind schedule...”* Is this 2001 Kessler decision and Council decisions leading up to it, relevant to how the Council must reduce GOM cod fishing mortality and allowable catch? Judge Kessler’s decision would have resulted in allowable commercial landings of just 1,789 mt and recreational landings of only 393 mt.
- d. Inshore versus offshore distribution: SARC 33 (July 2001) had an important conclusion to consider in any determination about whether the GOM cod SARC 53 conclusions were unexpected and unforeseen. SARC 33 determined that GOM cod inshore/offshore biomass proportions based on fall NEFSC bottom trawl surveys (4-yr running average) was 70% offshore (strata 28-30 and 36-40) versus 30% inshore (strata 26 and 27). SARC 53 indicated that GOM cod is now concentrated in the western portion of the GOM (presumably strata 26 and 27). To what extent are cod now concentrated in the western GOM and what are the implications of this distribution for the future of the GOM cod stock?
- e. Cod collapses.
- i. On September 26 and 27, 2005 DMF held a workshop entitled: *“MassBay Cod Project: A vital remnant of the Gulf of Maine cod stock?”* Director Diodati said to participants, *“Gulf of Maine cod need the largest reduction in fishing mortality. In recent years, seasonal abundance of cod near-shore has been attracting increased numbers of commercial and recreational fishermen...”* In background material for the Workshop it was noted: *“Consider*

that not too long ago stock collapse appeared imminent. The 27th SAW (June 1998) recommended an immediate reduction in fishing mortality to near zero and that all directed fishing for cod should be ended. It concluded that the combined effects of low spawning stock biomass (6,600 mt in 1998 versus 26,000 mt in 1989), high fishing mortality (0.75 in 1997), record low recruitment, and record low survival of pre-recruit fish indicated the stock was



collapsing (projected 5,700 mt in 1999)...” (emphasis added). It continued, “...we continue to reflect on the consequences of a collapse as evidenced by the Canadian experience with northern cod ...”

- ii. The Council should reflect on the following most recent status of cod stocks in the North Atlantic:
 1. Labrador cod (2GH) with no reported landings since 1980 and no recovery since 1993.
 2. Northern cod (2J 3KL) under a moratorium (some fishing allowed) with recovery stalled in recent year.
 3. Grand Banks cod (3NO) with no directed fishing since 1994.
 4. Flemish Cap cod (3M) with small increase in 2010 based on some recruitment and projected to rise above critical biomass level.
 5. Northern Gulf of St. Lawrence cod (3Pn 4RS) remains critically low.
 6. Southern Newfoundland cod (3Ps) with 4-year moratorium and biomass close to limit reference points.
 7. Southern Gulf of St. Lawrence cod (4TVn) has collapsed and continues to decline.
 8. Eastern Scotian Shelf cod (4VW) increased rapidly in recent years but after an 18-year closure; projected to decline below current limit reference points even under no fishing.
 9. Gulf of Maine cod (4XY) at low biomass with recruitment trending down.

10. Eastern Greenland cod with no offshore fishery for 15 years; recommended no fishing in 2011.
 11. Western Greenland cod closed to cod fishing.
- iii. In other words, what's up with cod just about everywhere in the NW Atlantic? Can GOM cod (5Y) and Georges Bank cod (5Z) be far behind? Are we finally facing a collapse of GOM cod and perhaps Georges Bank cod as well thereby justifying very little to no cod catch in 2012 and beyond? Are we in the midst of cognitive dissonance?
- f. Protection of spawning aggregations: DMF research pertaining to cod spawning aggregations and their protection (i.e., Cod Conservation Zones) culminated in the paper "Disruption of an Atlantic cod spawning aggregation resulting from the opening of a directed gillnet fishery" by Dean, Hoffman, and Armstrong (to be published in North American Journal of Fisheries Management 2012).
- i. These authors concluded: *"This study [using acoustic receivers to record transmissions from acoustically tagged cod] clearly demonstrates the adverse effect of gillnetting within an Atlantic cod aggregation."*
 - ii. Commenting on the Amendment 16 catch-share system, they indicated: *"...fishing efforts controls such as daily possession limits and rolling closures have been lifted for most fishermen. While this new system may provide a more direct method of controlling fishing mortality for the cod stock as a whole, it also greatly increases the potential for overexploitation of individual spawning groups. The Cod Conservation Zones enacted by Massachusetts have extended the spawning protection once offered by rolling closures in the immediate vicinity of the aggregations. Yet, other cod spawning aggregations exist in the Gulf of Maine that will likely face the brunt of relatively unrestricted fishing pressure, unless similar conservation zones are established... Fishery managers attempting to achieve spawning protections need to consider that fishing on spawning aggregations may have adverse effects that go beyond simple removal of biomass."*
 - iii. Buttrressing their conclusions and concerns are numerous papers such as:
 1. "Mating systems and the conservation of commercially exploited marine fish" (2003) by Rowe and Hutchings (Trends in Ecology and Evolution 18:11);
 2. "Extreme spawning site fidelity in Atlantic cod" (2011) by Skjaeraasen, Meager, Karlsen, Hutchings, and Ferno (ICES Journal of Marine Science 68:7);
 - a. Of note: *"...we are unaware of such fidelity on as small a geographic scale as documented here. Almost all recaptures of wild cod in the present study were within a few kilometers of the release*

- site, and cod continued to be recaptured there 3 years after initial release at or about the time of spawning.*
- b. *Notwithstanding the likely spatial biased fishing effort (on the spawning aggregation), the large proportional representation of recaptured cod at or near the spawning grounds and the large proportion of acoustically tagged wild fish present at the spawning ground in both 2008 and 2009 are consistent with the hypothesis that cod in the area exhibit homing and fidelity to these spawning grounds (emphasis added)...*”
3. “The illusion of plenty: hyperstability masks collapses in two recreational fisheries that target spawning aggregations” (2011) by Erisman, Allen, Claisse, Pondella, Miller, and Murray (Can.J. Fish. Aquat. Sci. 68)
- a. These authors found for southern California barred sand bass and kelp bass that “*aggregating behavior of fish and persistent targeting of spawning aggregations by recreational fisheries combined to produce a hyperstable relationship between CPUE and stock abundance in both species with created the illusion that population levels were stable and masked fishery collapses.*”
- b. Referencing other researchers’ findings, they concluded: “*...The importance of effective monitoring for aggregating fishes cannot be overstated, given that few aggregations are managed worldwide and most have either declined or disappeared altogether.*”
4. “Spawning behavior of Atlantic cod, *Gadus morhua*: evidence of mate competition and mate choice in a broadcast spawner” (1999) by Hutchings, Bishop, and McGregor-Shaw (Can. J. Fish. Aquat. Sci. 56);
5. “Multiyear homing of Atlantic cod to a spawning ground” (2001) by Robichaud and Rose (Can, J. Fish. Aquat. Sci. 58);
6. “An observation on the reaction of Atlantic cod (*Gadus morhua*) in a spawning shoal to bottom trawling” (1997) by Morgan, DeBois, and Rose (Can. J. Fish. Aquat. Sci. 54);
7. “Cod spawning on a migration highway in the north-west Atlantic” (1993) by Rose (Nature 366);
- g. No-trip-limit fishery: Heretofore the GOM cod fishery (and Georges Bank) were managed with restrictive trip limits (in some cases too restrictive promoting large discarding). Now there are no trip limits for sector fishermen.

- i. Sector management with sector ACEs for GOM cod results in an individual fisherman's GOM cod percent sector contribution or PSC being caught or leased by that fisherman with a trip's catch (landings and discards) only being constrained by that fisherman's PSC, i.e., thousands instead of previous hundreds of pounds.
 - ii. GOM cod landings through trips greater than 800 pounds (dressed weight) was 2,500 mt; less than 800 pounds accounted for 590 mt in fishing year 2010.
 - iii. These data should be examined by gear, time and area within the GOM to determine the range and frequency of catches to provide insights into the effects of a no-trip-limit fishery especially in areas and at times when GOM cod are aggregated for spawning.
- h. Actual GOM cod catch (calendar year) versus target TACs (fishing year):
 In past years under days-at-sea (DAS) restriction GOM cod catch greatly exceeded target TACs. For example in 1996 the target TAC was 2,762 mt versus 7,650 mt (commercial landings and discard plus recreational harvest). Comparisons were: 2,605 vs 5,731 mt (1997); 1,783 vs. 4,515 mt (1998); 782 vs. 4,769 mt (1999); 1,118 vs. 5,939 (2000); 1,918 [interpolated] vs. 8,400 mt (2001); 1,918 [interpolated] vs. 7,286 mt (2002); 2,675 [interpolated] vs. 7,537 mt (2003); 4,850 vs. 5,817 mt (2004) – *note following reversal*: 6,372 vs. 5,635 mt (2005); 5,146 vs. 5,536 mt (2006); 10,020 vs. 5,268 mt (2007); 10,491 vs. 8,499 mt (2008); 10,724 vs. 8,775 mt (2009). For nine consecutive years commercial and recreational catches greatly exceeded target TACs, then collective catch began to drop below the TACs. This reversal of fortune needs to be explained (i.e., more effective regulations, fewer fishermen, GOM cod unavailable, TACs derived from too optimistic assessments...).

Management requirements

- (1) Rebuilding deadline: GOM cod is scheduled to rebuild to the biomass target by 2012. With the “loss” of the 2005 year-class that is no longer possible even if F is reduced to zero – another impossible task.
- a. Magnuson-Stevens considerations:
 - i. Magnuson-Stevens Reauthorization (May 2007) pages 92 & 93 regarding “Rebuilding overfished fisheries,” i.e., “...if the Secretary [Commerce] discovers at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery... Within 2 years after an identification [i.e., fishery is overfished] ...the appropriate Council...shall prepare and implement a fishery management plan, plan amendment or proposed regulations for the fishery **to end overfishing immediately** (emphasis added) in the fishery and to rebuild affected stocks of fish...”
 - ii. Contents of Fishery Management Plans page 76: “Any fishery management plan which is prepared by any Council, or by the

Secretary, with respect to any fishery, shall...establish a mechanism for specifying annual catch limits in the plan...or annual specifications, at a level ***such that overfishing does not occur in the fishery*** (emphasis added)...”

- iii. Effective Dates page 79: Regarding ii above, “*shall...take effect in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing and in **fishing year 2011** (emphasis added) for all other fisheries...*”

(2) NOAA Fisheries advice on “flexibility”

- a. We’ve been advised that NOAA Fisheries will provide advice on this important issue tomorrow, Friday the 13th (oops, bad omen?)
- b. Depending on that advice the Groundfish Committee (January 18 meeting) will have recommendations for the Council’s consideration beginning on January 31 (3-day Council meeting).

(3) MFI involvement

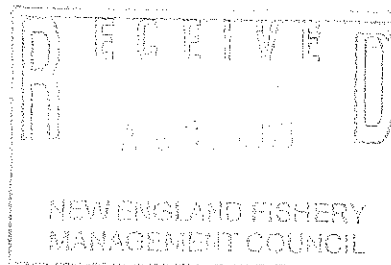
- a. See letter from Diodati and Rothschild to Eric Schwaab.
- b. Met on Monday (9th) to review DMF/SMAST research relevant to GOM cod and to plan for constructive input consistent with newly developed understanding between the MFI and the Northeast Fisheries Science Center.

3

NORTHEAST SEAFOOD COALITION

August 30, 2013

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



Re: New England Fishery Management Council Priorities

Dear Terry:

On behalf of our members whose businesses rely upon a sustainable and stable groundfish fishery, the NSC strongly requests that the Groundfish Oversight Committee recommend to the New England Fishery Management Council for inclusion in the Council's future priorities that alternative management approaches for setting catch advice be explored, analyzed and considered for stocks managed under the groundfish fishery management plan. Such strategies should be considered as an alternative for managers who have relied solely upon the existing stock assessment models which, for many stocks, have proven over the past ten years to yield wildly fluctuating if not unreliable results. This has rendered both the business and management of the groundfish fishery virtually impossible.

NSC strongly believes that the time for exploring alternative management approaches is now. The groundfish fishery, which is now only four months away from the original 2014 rebuilding targets, is already in a state of disaster.

NSC looks forward to working with your Committee and the Council on this important endeavor to achieve sustainability and stability in the groundfish fishery.

Thank you in advance for your consideration.

Sincerely,

Jackie Odell
Executive Director

Cc: Tom Nies, Executive Director, New England Fishery Management Council
Jamie Cournane, Groundfish Plan Coordinator, New England Fishery Management Council

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

cc: Cournane, NEFMC (1/6)

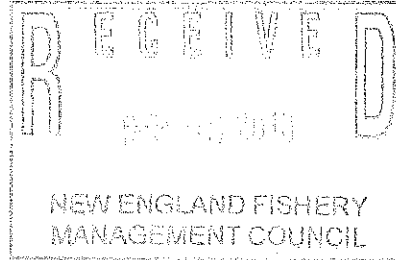
3



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

AUG 28 2013

Ben Martens, Manager
Maine Coast Community Sector
PO Box 112
Topsham, ME 04086



Dear Mr. Martens:

We have approved your August 21, 2013, request to add the sampling exemption to the ~~Maine Coast Community Sector's operations plan. The amendment that will be added to~~ the approved operations plan is enclosed. If you have additional questions, please contact Alli Murphy at 978-281-9122.

Sincerely,

George H. Darcy
Assistant Regional Administrator
for Sustainable Fisheries

cc: NEFMC
enclosure



Handwritten notes at the bottom of the page, possibly including "Alli Murphy" and "NEFMC".

**AMENDMENT 1 TO THE MAINE COAST COMMUNITY SECTOR OPERATIONS
PLAN**

APPROVED BY THE NATIONAL MARINE FISHERIES SERVICE AUGUST 28, 2013

EFFECTIVE AUGUST 28, 2013, FOR THE 2013 FISHING YEAR

Section 5.09 Exemptions

Exemptions Previously Approved for FY 2012

- 120-day block out of the fishery required for Day gillnet vessels;
- 20-day spawning block out of the fishery required for all vessels;
- prohibition on a vessel hauling another vessel's gillnet gear;
- limits on the number of gillnets that may be hauled on GB when fishing under a groundfish/monkfish DAS;
- limits on the number of hooks that may be fished;
- DAS Leasing Program length and horsepower restrictions;
- powering vessel monitoring systems (VMS) while at the dock.

New Exemption for FY 2013

- Day gillnet vessels fishing up to 150 nets, any combination of flat fish or roundfish nets, in the GOM Regulated Mesh Areas. To protect spawning cod, there are seasonal restrictions on this exemption. A vessel fishing in the GOM RMA may use this exemption seasonally, but will be restricted to the 100-net gillnet limit in blocks 124 and 125 in May, and in blocks 132 and 133 in June. Vessels granted this exemption must tag each gillnet with one gillnet tag; and
- sampling exemption.

Upon approval, each sector vessel will be issued a Letter of Authorization (LOA) specifying the exemptions granted. Vessels must comply with all applicable Federal regulations and laws not specifically exempted in the LOA.

Received by email: September 4, 2013



----- Original message -----

From: "James A. Odlin" <trawlers@maine.rr.com>
Date: 09/04/2013 11:53 AM (GMT-05:00)
To: "Stockwell, Terry" <Terry.Stockwell@maine.gov>
Cc: jimodlin@maine.rr.com
Subject: MASSIVE DUMPING

Terry Stockwell
Acting Chair NEFMC

Dear Terry:

I am writing you about an issue that has recently come to my attention with the herring midwater fleet fishing on Georges Bank. There is a massive discard issue going on right now, our vessels have been fishing on and around the cultivator and have seen up to 9 midwater boats, discarding massive amounts of haddock. We do not understand how this is dropping through the cracks and I, for one, was under the assumption that these landings were being monitored and that there is some level of observer coverage to prevent this dumping it is critical that these haddock are not wasted it is the only thing that is likely to help preserve some semblance of the ground fleet and the infrastructure, we cannot afford this to be wasted.

I write to ask the council to look into:

1. Are these vessels landings in fact being monitored?
2. Is there adequate observer coverage on these vessels and how is this massive dumping getting by?

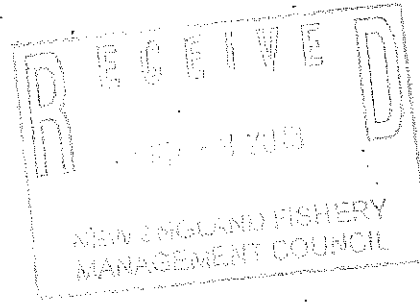
Thank you,

Jim Odlin

Handwritten signature: Jim Odlin, PMF



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR



September 3, 2013

VIA E-MAIL

Mr. Terry Stockwell
Director of External Affairs
Maine Department of Marine Resources
21 State House Station
Augusta, ME 04333-0021

Mr. Terry Alexander
67 Grover Lane
Harpwell, ME 04079

Mr. Thomas D. Dempsey
Cape Cod Commercial Fishermen's Alliance
1566 Main Street
Chatham, MA 02633

Ms. Mary Beth Nickell-Tooley
43 Norton Pond Road
Lincolnton, ME 04849

Dear Mr. Stockwell, Mr. Alexander, Mr. Dempsey, and Ms. Nickell-Tooley:

In anticipation of the Transboundary Management Guidance Committee (TMGC)'s meeting on September 10 and 11, 2013, I write to urge that you negotiate a quota of no less than 500 metric tons for Georges Bank yellowtail flounder ("Georges Bank yellowtail") for the 2014 fishing year.

As you know, Georges Bank yellowtail is critically important to New Bedford's economy. In addition to being part of the groundfish fishery, Georges Bank yellowtail is bycatch for the scallop fishery, which brings in approximately \$400 million in direct annual revenue to New Bedford. Taking into account the groundfish and scallop fisheries' ancillary businesses, Georges Bank yellowtail is tied to nearly \$1.3 billion in annual economic activity in Greater New Bedford.

For the 2013 fishing year, the quota for Georges Bank yellowtail was slashed to 500 metric tons from 1150 metric tons in 2012. This 57% reduction generated significant criticism because it was based on a 2012 TRAC assessment that was widely viewed to have a high degree of uncertainty and to be methodologically flawed. In light of the assessment's flaws, both the Scientific and Statistical Committee (SSC) and the New England Fisheries Management Council (NEFMC) recommended that the 2013 quota be set at 1150 metric tons. However, NOAA did not adopt their recommendations because the TGMC had set a lower quota of 500 metric tons.

A year later, there are even greater concerns about the 2013 TRAC assessment for Georges Bank yellowtail. In an August 12, 2013 letter to the SSC chair, Dr. Jake Kritzer,

JMF

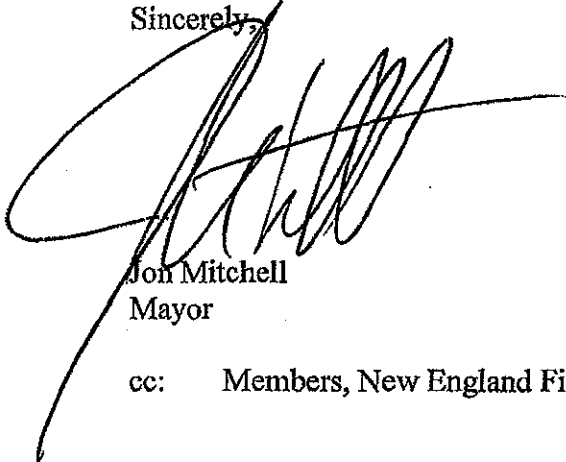
Dr. Steve Cadrin of the School for Marine Science and Technology (SMAST) at UMass Dartmouth stated that he could not “accept the 2013 TRAC assessment of Georges Bank yellowtail flounder as a reliable basis for fishery management decisions.” And in a detailed letter to Dr. William Karp, the Director of the Northeast Fisheries Science Center, attorneys for the Fisheries Survival Fund explained that the 2013 TRAC assessment “increased in uncertainty, the assessment process did not meet NMFS’ own guidance for best available scientific information, and accepting the assessment contradicts NMFS’ own guidance regarding retrospective patterns.”

Given the problems with the 2013 TRAC assessment – problems that should have been identified and addressed over the past year – I urge that at your upcoming meeting with the Canadian representatives of the TGMC, you negotiate a Georges Bank yellowtail quota of no less than 500 metric tons. This quota would be consistent with the SSC’s August 21, 2013 recommendation that the Georges Bank yellowtail quota not exceed 500 metric tons, and it would ensure that New Bedford’s fishing industry is not further harmed based on uncertain and flawed science.

At the same time, I ask that you work to ensure that future TRAC assessments are conducted in a manner that renders them sufficiently reliable for giving catch advice. As mayor of the number one fishing port in the United States, I appreciate the importance of conserving the fisheries for the long-term, as well as the difficulty of conducting assessments. Nevertheless, we must not allow unreliable scientific determinations to threaten the lifeblood of our fishing communities.

Thank you very much for your consideration.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jon Mitchell', is written over the typed name and title.

Jon Mitchell
Mayor

cc: Members, New England Fisheries Management Council