

#10

CORRESPONDENCE



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

February 25, 2015

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

RE: FY2015 recreational fishery proactive accountability measures for Gulf of Maine cod and Gulf of Maine haddock

Dear John:

Consistent with the consultation requirements of 50 CFR 648.89(f)(3), the Council developed recommendations for proactive accountability measures (AMs) for Gulf of Maine (GOM) cod and GOM haddock for FY 2015 at its January 2015 Council meeting. These AMs require development by the Regional Administrator (RA) in consultation with the Council, because the appropriate suite of measures (e.g., bag limit, minimum fish size, season) depends on the Annual Catch Limits (ACLs) specified for the upcoming fishing year. The RA may adjust measures to ensure the recreational fishery will achieve, but not exceed, its sub-ACL.

The Council took final action on Framework Adjustment 53 (FW53) in November 2014, which included among its Preferred Alternatives decreasing ACLs for GOM cod and increasing ACLs for GOM haddock based on the results the most recent assessments for those stocks. The GOM cod protection measures that were selected as preferred by the Council include zero possession of GOM cod for the recreational fishery. If FW53 ACLs are implemented for FY 2015, the sub-ACLs for the recreational fishery would be 121 mt and 372 mt for GOM cod and GOM haddock, respectively.

Although GOM cod continues to be in poor condition (overfished and overfishing is occurring), GOM haddock is not overfished and overfishing is not occurring. The emergency action (to increase the GOM haddock ACL in-season) and interim management measures (to protect GOM cod) taken in 2014 by NMFS, following Council requests for action, reflect this updated assessment information as well.

In order to inform the Council discussion, the Recreational Advisory Panel (RAP) met on January 22, 2015 to discuss potential AMs. The Council discussed the RAP's recommendations on January 29, 2015. The Council reviewed the RAP recommendations, several AM scenarios, and the expected impacts of those scenarios.

The RAP received a presentation from a Northeast Fisheries Science Center (NEFSC) economist on the bio-economic model for developing recreational measures. For all scenarios, no possession for GOM cod was assumed, consistent with the Council's Preferred Alternatives in FW53. None of the model-based AM scenarios presented were predicted to achieve but not

exceed the sub-ACLs for both stocks in FY 2015. Sensitivity runs of the model (examining reducing the discard mortality rate of both stocks and/or increasing the compliance rate) did result in AM combinations in which the sub-ACLs for both stocks would be achieved but not exceeded. After receiving an overview of recent published literature on conservation gear, GARFO staff asked the advisors for their expert opinion on how to practically reduce discard mortality of cod and haddock. The RAP forwarded motions to the Council on compliance and discard mortality, and the Council passed similar motions (Motion 1 and Motion 2).

Motion 1: The Council recommends to NMFS that the outreach component to recreational anglers regarding changes to the GOM cod and haddock management measures, currently underway by GARFO, continue and its impact on reducing non-compliance be considered when predicting recreational catches for FY 2015.

The motion carried on a show of hands (15/0/1).

Motion 2: For the purposes of reducing discard mortality on GOM cod and haddock, the Council recommends to NMFS prohibiting the use of more than two hooks per line while fishing for groundfish in the Gulf of Maine. Only inline circle hooks may be baited. When using a jig or artificial lure, only single point j-hooks may be used (e.g., no treble hooks). Teasers, feathers, fly etc. may be used but count toward the use of no more than two hooks per line.

The motion carried on a show of hands (14/0/2).

The RAP expressed concerns regarding the model predicted recreational effort (angler trips), cod bycatch, and discard accounting in FY 2015. Therefore, the RAP crafted three consensus statements to summarize their concerns and forwarded these to the Council. The RAP forwarded a motion similar to Motion 3 that the Council passed that recommends AMs for FY2015.

RAP Consensus Statements:

- 1) The RAP feels that directed GOM angler trips will decline substantially in FY 2015 under no possession for GOM cod and the anticipated low bag limit for GOM haddock for the recreational fishery. The RAP feels that the change in effort between FY 2014 and FY 2015 would be at least a 50% decline. Data provided in Table 12 (*Document # 4b, NEFSC/SSB, Recreational Catch and Effort Tables, dated January 14, 2015*) [see next page] supports this concern as declines in effort between FY 2013 to FY 2014 from the GOM cod and GOM haddock wave 5 (September 1 to October 31) closure were estimated to be a 85% decline overall.

Table 12. Wave 5 (Sept-Oct) Directed Gulf of Maine Angler Trips¹ by Fishing Year and Mode

Mode	Angler Trips		
	FY2013	FY2014 ²	% Change
Headboat	16,914	4,381	-74%
Charterboat	3,168	616	-81%
Privateboat	45,725	4,726	-90%
Shore	0	0	0%
	65,807	9,723	-85%

¹Angler trips = number of trips that targeted and/or caught cod or haddock

²Data available for wave's 3, 4, and 5 in FY2014. Data from wave 2, 2014 and wave 6, 2013 used as proxies.

- 2) The RAP feels that under no possession of GOM cod that party, charter, and private vessels will be much less likely to fish in areas known to have aggregations of cod and less likely to use equipment to target cod. The ability of anglers to avoid cod is not taken into account in FY 2015 recreational catch projections. Therefore, the RAP feels that cod bycatch would be greatly reduced from what is projected for FY 2015.
- 3) Recreational discards were not considered in the allocation of GOM cod and haddock. Discard mortality estimates are being used in recreational catch projections to determine potential accountability measures (AMs). The RAP recommends that this concern be considered when implementing AMs.

Motion 3: In light of no possession on cod and expected declines in effort (including consideration of RAP motions 1 and 2 and RAP consensus statements 1, 2, and 3), the Council recommends to NMFS that proactive AMs for GOM haddock in FY 2015 be a bag limit of at least 4 fish, a 17 inch minimum fish size, and closed seasons during wave 2 (March 1 to April 30) and wave 5 (September 1 to October 31).

The motion carried on a show of hands (14/0/1).

The Council wishes to thank NMFS staff for working to address information needs in advance of the RAP meeting and for holding AM consultations with the RAP prior to the January Council meeting so that Council input could be provided. The Council also thanks NMFS for providing additional sensitivity analysis this year to examine the AMs with consideration of how management targets may be achieved.

Thank you for considering these comments. Please contact me if you have questions.

Sincerely,



Thomas A. Nies
Executive Director

Copy: Dr. Bill Karp, NEFSC

Received via email on Mar 1, 2015, "Jim Ford- F%2FV Lisa Ann II"

John, Council,

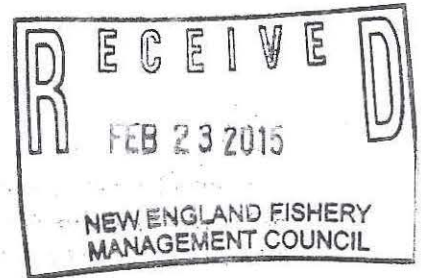
I would like to oppose changing the emergency action on the basis that all of us inshore fishermen have taken a very hard hit this winter. I have been lucky to have been able to go state waters scalloping which I do not want to do at all !!!! We were pretty much put out of business this winter when the emergency action that took place. The cod are everywhere not just inshore G.O.M and apparently off Rhode Island and all over offshore. I am not trying to make it harder on the offshore vessels, but they keep saying they don't depend on cod like I always have inshore. Until they figure out where all these stock boundarys are they should consider it one stock. The hauling back on whatever side you have quota for Georges/ G.O.M will continue if you allow it. I am completely overwhelmed with disappointment the way things are going into the new fishing year. I myself am looking at ground fishing May to July and thats it !! I normally fish year round. I really do not know what we can do besides go whiting fishing for a little while? That leaves me September thru December 15 th when state waters open up to go scalloping again. That's a long vacation I can't afford!!! I also cannot afford to pay at sea monitors which is a absolute waste of money.

Carl Bouchard just sent in a letter and probably put it better than I did, I agree with him 100 percent.

Thanks,
Jim Ford

F/V Lisa Ann III
Lisa Ann II
Starcraft II
Star
Starcraft
Starcraft III

jc/jp - 2/3/15



James Lovgren FV Shadowfax

Dragongirl Inc

17 Laurelhurst Dr, Brick N.J.

John Bullard R.A.

08724

GARFO

2/14/15

FV Shadowfax Groundfish appeal letter, Permit # 320424 [formally Viking II 320536]

Dear Mr. Bullard;

Please review the following data and information as it relates to this, my appeal to being excluded from the NE groundfish disaster aid money. I've fished out of New Jersey all my life, except for a few years where I worked out of Newport RI Yellowtail fishing in the 70's and 80's. As you know the states from New Jersey and south were left out of the initial groundfish disaster funding, and only recently were 17 vessels granted approval of funds thru the ASMFC. I received my letter from NMFS in mid December stating that I did not qualify. I requested from NMFS my landings history to see where exactly I stood in regard to landings on my vessel and received the data in mid January. In 2012 I appear to be about 500 pounds short of 5,000 Lbs. There are some discrepancies.

I was sent both VTR and NMFS official dealer landings data. I noted that the dealer data for march 11th is missing, although my VTR shows 1,000 fluke, 500 yellowtail flounder and 35 4 spots.

Officially for the year my yellowtail landings show 4,402 lbs by VTR, and 3,856 by dealer data. Clearly 500 pounds is missing here, the VTR proves that. That puts my dealer landings that year at about 4,400 pounds there are also 51 pounds vtr reported or 59 pounds dealer reported cod landings. 261 by VTR or 284 pounds by dealer data of 4 spots which are a regulated groundfish. Also in September of 2012 I engaged in a black back flounder tagging study with Dr Ken Able of Rutgers we spent two different days tagging a few hundred fish with satellite and regular tags. I easily caught over a thousand pounds of legal BB flounder yet could not land them as there was a ban in effect. My VTR for Sept 6 shows 25 pounds of BB flounder landed as take home for the Taggers. On Sept 17th there was one pound as take home.

Groundfish disaster aid is supposed to be distributed to people who have historically participated in the fishery, albeit with the strict provision that the only years used were 2010 to 2013. I can tell you that the jersey fishermen at my dock, Fishermen's Dock Co-op found it hard to believe that I didn't qualify [4 of them did] So let's go into a little bit of my landings history, and some of the other qualifiers at the dock. In 2006 my first year with the Viking II [which replaced my vessel the Sea Dragon which was burned at the dock by a disgruntled new England gill netter, and which I am still convinced had something to do with my being a member of the MAFMC] I used at least 21 DAS and landed over 31,000 pounds of groundfish mostly Blackback Flounder. In 2007 I used at least 20 DAS and landed over 22,500 pounds of Groundfish, mostly Blackback Flounder which was our primary groundfish. In 2008 they shut down the directed fishery totally for BB fld and left me with 895 pounds of BB fld caught through the BB Fld special access program which I pushed the creation of as a council member and groundfish committee member. That program ended that year with a total ban on BB Fld landings. No one at the Co-op had any groundfish landings in 2009, 2010, we had to shift back to Gen Cat scallops without having a blackback fishery despite there being plenty of Blackbacks down here at the time. I made 60 scallop trips in 2008, 17 in 2009. These trips did not count though for the gen cat limited access qualifier, so although my permit went back to 1980 with scallops, The boat missed qualifying for scallop DAS back in the 1990's by one year, [if they went back one more year every boat at the Co-op would have qualified for scallop DAS, as it is only one did, and that's attributable to the corruption of the advisory panel members who decided who they wanted in] So when they divided up the gen cat fishery my scallop landing for 2008 didn't count, but a bunch of people who had no previous history in the scallop fishery were made millionaires. Once again screwed by one year.

In 2011 after years of nobody catching any Yellowtail flounders in New Jersey I went out to the monster ledge and found some, Due to a tiny 250 pound trip limit, it was hard to make a days pay, but you could piece it together with a combination of dogfish, skate wings, Fluke bycatch and the YT's. I only fished 8 trips, [9 DAS] and landed slightly more than 2,000 pounds of groundfish. The Jaime Mae [one of the qualifiers at the dock], started working on them a week after me, and worked a solid month on them and qualified with those landings, while because it is a small fishing area, I was kind of forced off by his bigger boat and changed fishery. In 2012 you saw my landings, the Amanda C from the dock worked with me that year and due to the bigger trip limit he qualified with that year, and once again the extra pressure on the grounds made me change to Fluke / sea bass. If I knew how important one more trip would be that year, I would have made one. After the tagging trips in Sept, the Viking II sunk 75 miles off of Cape May in Oct on a cable guard boat job.

In 2013 the Blackback fld fishery opened again, and two other vessels from the dock qualified, the Kailey Ann, who had no groundfish landings in the 2010 -2012 period, and the Amber Waves who had about 800 pounds of landings from 2012. Both of these vessels have like me extensive prior groundfish landings pre 2009. While I was in between vessels, in 2013 I worked on the Amber Waves while the vessel qualified. If the Viking II had not sunk I would have also had more than enough landings of Blackback Fld to qualify. Now with a new boat I get ready to go yellowtail flounder fishing and they cut the trip limit to 250 pounds [this fishery is short mid feb- end of march], and it appears the BB fld fishery is moving east as our landings in 2014 were minimal. If going from having 15 to 30 percent of your income being derived from groundfish to having a little more than zero isn't a disaster, I suggest you cut your

income that much and see how you make out. Scallops have been taken away, and because of the cut back in their landings the last few years those scallop vessels have jumped into the fluke/ sea bass/ squid/ Porgy fishery and taken even more from us.

For one last bit of sour grapes over being screwed left and right by one year or a few pounds, [Monkfish] 100 lobster a day because of maine potters, ect ect. The worst was and you can check the public record, Jim O'Malley did, I was the first person to suggest and outlined a Government buyout program back around 1995 in my 8 pages of comments on Amendment #5 Multi species. It gained ground over the next few years and became the first buyout of 75 million dollars around the year 2000. At the time My vessel the Sea Dragon had 88 DAS and I would use 30 to 40 of them a year, but I saw the writing on the wall, as the yellowtail had disappeared, with the cod, and the Blackbacks were definetly changing behavior moving into deeper waters all the time. I was planning on submitting a proposal of somewhere in the 100,000 to 125,000 dollar range for the buyout of my groundfish permit, when I discovered that since I was a member of the MAFMC I was not allowed. I lost out on a lot of money there, and I can tell you if I knew then that Pat Kurkel would make sure that I was not reappointed to the MAFMC in 2004, I would have resigned back then and sold my permit. I have been screwed over and over again, and after 40 plus years of it, I'm not a happy camper. So think about my 2012 landings, clearly I caught enough to qualify with the tagging study included.

Thanks for your consideration

Jim Lovgren

CC; Allison Ferreira Garfo

Robert Beale ASMFC

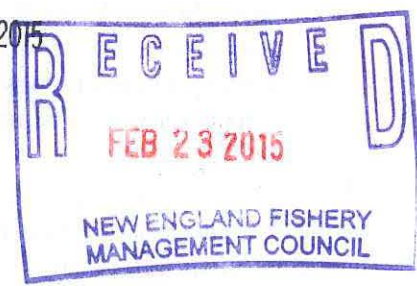
Chris Moore MAFMC

Thomas Neis NEFMC



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

FEB 19 2015



Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Tom:

I received your December 2, 2014, letter detailing the Council's recommended changes to our recent Gulf of Maine cod interim action and GOM (GOM) haddock emergency action. While I announced at the January 28, 2015, Council meeting that, after receiving public comments, we do not intend to modify either of these actions, I am responding to your letter to more thoroughly address your concerns and to update you on more recent developments.

The Council requested that we "allow vessels enrolled in the day gillnet category a one-time change to their permit category from the Day to the Trip-gillnet category." My staff worked quickly to address this through a correction rule (79 FR 77946) that became effective December 29, 2014.

The Council also requested that we "analyze the possibility of taking away some unused annual catch entitlement rather than have the 200-lb trip limit." As I explained in my other February 19, 2015, letter to you, after receiving an exemption request developed by several sectors, we issued a notice in the *Federal Register* which filed on February 18, 2015, and will publish on February 23, 2015. We are expediting the review and potential approval of this exemption request.

In addition, the Council requested that we increase the 2014 GOM haddock annual catch limit to be consistent with the most recent Scientific and Statistical Committee advice. The SSC set the 2015 GOM haddock ABC based on a projection from the final model (ASAP_final_temp10 model) that was supported by the Stock Assessment Review Committee (SARC) 59. However, in our GOM haddock emergency action, we increased the 2014 GOM haddock ACL to a level based on the "sensitivity" projection (ASAP_final_temp11 model) developed for SARC 59. Despite comments from the Council and several fishermen, we have elected not to further increase the 2014 GOM haddock ACL.

As explained in the GOM haddock emergency action (79 FR 67090; November 12, 2014; see page 67092) we utilized the sensitivity analysis when setting the 2014 GOM haddock ACL because "we consider a cautionary approach to increasing the quotas to be more appropriate for an emergency action." We remain concerned with the uncertainty of the size of the 2012 haddock year class that is discussed throughout the documents from the Stock Assessment Workshop (SAW) 59. For example, the SARC 59 Panel Summary Report (p. 12) states:



FW/c/jp - 2/24/15


“The constraint of the 2012 year-class may be *ad hoc*, but past experience of retrospective bias with this stock suggests that unconsidered acceptance of recent year-class strength estimates may be unwise... The panel would need to know more about the progress through 2014 of the fishery to conclude whether an F (status quo) or constrained catch approach would be more appropriate.”

The SAW 59 Final Report (pg. 22) explains that “Both the working group and SARC concluded that the projections based off the ASAP_final_temp 10 model were the ‘most realistic.’ However, it should be stressed that the absolute size of the 2012 year class is the largest source of uncertainty in this assessment.”

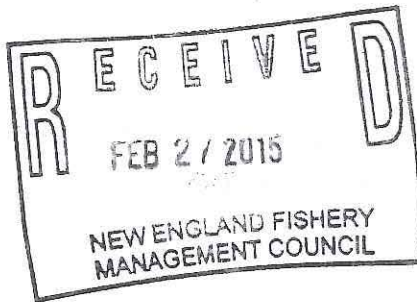
It was for these reasons that the Groundfish Plan Development Team recommended that the SSC base the 2015 GOM haddock ABC (and therefore the corresponding ACLs) on the sensitivity projection, and why, despite the recommendation of the SSC, we felt most comfortable using a more cautionary approach when increasing the 2014 GOM haddock ACL. As explained at the January 28, 2015, Council meeting, we believe the 2014 GOM haddock emergency serves as a temporary bridge between the original 2014 GOM haddock allocation and the 2015 GOM haddock allocation.

If you have any additional questions or concerns, please contact the Sustainable Fisheries Division at (978)-281-9315.

Sincerely,



John K. Bullard
Regional Administrator



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

3

FEB 24 2015

Ms. Elizabeth Etrie, Esq.
Northeast Fishery Sector I
85 Eastern Avenue
Suite 104
Gloucester, MA 01930

Dear Ms. Etrie, Esq.

On February 6, 2015, my staff held a sector manager conference call to discuss the proposed amendment to the Standardized Bycatch Reporting Methodology (SBRM) and its impact on the sector at-sea monitoring (ASM) program. Even though sectors have been technically required to pay for ASM since fishing year 2012, the agency has been able to fund your costs each year. As we discussed on the call, because of funding changes that would be required by the proposed SBRM amendment, we expect that sectors will be responsible for paying at-sea costs associated with the ASM program before the end of calendar year 2015.

We are currently looking at how this change will affect our data collection systems, especially the pre-trip notification system used to assign ASM coverage. We have also begun working on an implementation plan to help ensure a seamless transition when the industry assumes responsibility for at-sea costs of the ASM program in 2015. We will continue to keep you informed about any changes or updates to this transition.

We will soon publish a proposed rule to approve sector operations plans for fishing years 2015 and 2016. Because we expect changes in the ASM program, we will verify that all approved sectors comply with the ASM requirements throughout the entirety of both years. If necessary, I am authorized to withdraw approval of a sector at any time, after consulting with the Council, if the sector cannot continue to operate without jeopardizing the fishery management plan. However, we hope to work with each sector to ensure that all ASM program requirements are met throughout the year. If you have any questions, please contact Mark Grant at 978-291-9145.

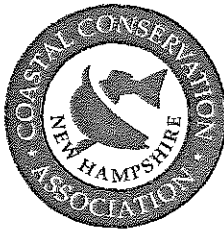
Sincerely,

John K. Bullard
Regional Administrator

cc: New England Fishery Management Council
At-Sea Monitoring Providers



jc/jp-2/27/15



Coastal Conservation Association Of New Hampshire

Post Office Box 4372 • Portsmouth, NH 03802
Phone: (603) 731-2669 • E-mail - info@ccanh.org
Web Address - ccanh.org

State Board of Directors

Donald L. Swanson
President

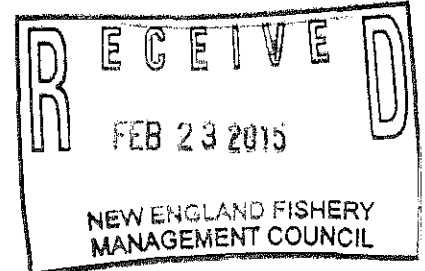
B. David Bryan
Treasurer

Mitch Kalter
Secretary

Dr. Larry Albright
Capt. Dave Beattie
Ellen Goethel
John F Habig
Matt McCarthy
Christian Stallkamp
Capt. Peter Whelan
G. Ritchie White
J Jeffrey Barnum
Michael Reeve
Capt. Zak Robinson
Amy Broman

February 12, 2015

Mr. Douglas Grout
Chief, Marine Fisheries Division
NH Fish and Game Department
225 Main Street
Durham NH 03824



Dear Mr. Grout:

The Recreational Advisory Panel recommended prohibiting the use of more than two hooks per line while fishing for GOM groundfish and that only inline circle hooks may be baited. It is my understanding that this recommendation was made to reduce mortality in GOM cod. I believe that an exemption on use of circle hooks is needed with regard to the flounder fishery in the GOM. Baited circle hooks will not work in this fishery due to the small mouths inherent in these species. I was in attendance at the Council meeting Thursday and believe that this consideration was missed while the motion was being developed.

Should these federal regulations be passed as currently proposed, and then be adopted by NH, it would essentially close all practical flatfish angling in state waters. We are asking that an exemption be granted for flatfish fishing in NH state waters to allow baited, standard sized, flounder hooks, should that occur.

Thank you for your consideration to this important issue facing the recreational anglers of NH.

Sincerely,

Donald L. Swanson
President CCANH
84 Franklin St.
Derry, NH. 03038-1914
603-434-4593
salty4fly2@comcast.net

Cc: Tom Nies, Ex. Director NEFMC
John K. Bullard, Regional Administrator, NOAA Fisheries

DEDICATED TO CONSERVING NEW HAMPSHIRE'S MARINE RESOURCES

The Coastal Conservation Association of NH ("CCA NH") is an unincorporated state chapter of the Coastal Conservation Association ("CCA"), which currently has over 96,000 members in seventeen states. CCA is a nonprofit, public charity corporation that is qualified under IRC §501(c)(3).

Donations to CCA NH are tax deductible under IRC §170.

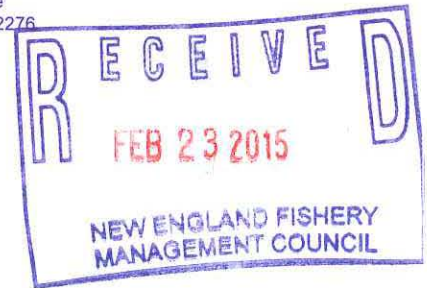
jc/jp -2/24/15



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

Thomas A. Nies, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

FEB 19 2015



Dear Tom:

I have attached a *Federal Register* notice announcing that we have received and are considering a request from a number of groundfish sectors for exemptions from two Gulf of Maine cod interim measures implemented on November 13, 2014.

On February 9, 2015, we received an exemption request from several sectors. These sectors requested exemptions from the 200-lb per trip GOM cod possession limit and from the GOM Broad Stock Area (BSA) restriction. In order to avoid an increase in GOM cod mortality that the interim rule measures were designed to reduce, the sectors worked together to assemble 30 mt of GOM cod ACE, which was traded to Northeast Fishery Sector IV, a lease-only sector with no active fishing effort. That sector has proposed to withhold that GOM cod ACE if sectors are granted regulatory exemptions from the GOM cod trip limit and GOM BSA restriction.

The 200-lb trip limit was intended to reduce the incentive to target GOM cod in areas that would remain open under the interim action. We estimated that implementing the 200-lb trip limit would likely result in a 20-mt GOM cod mortality reduction. The requesting sectors propose that a 30-mt reduction in the GOM cod ACE resulting from the sector exemption would provide a greater biological benefit to GOM cod than the probable reduction in mortality from the 200-lb trip limit. Further, removing the trip limit, as requested by the sectors, would provide a clear limit on overall catch of GOM cod and should minimize regulatory discarding.

The single GOM BSA restriction was intended to facilitate more effective shore-side enforcement of the 200-lb trip limit. However, if an exemption is granted from the 200-lb trip limit, there is less of a need for the GOM BSA restriction. To help ensure better monitoring, we are proposing additional VMS reporting requirements for vessels fishing under this exemption.

We have published a notice in the Federal Register announcing our receipt of this request, and informing the public that we are considering it. We are seeking comments from the public before we make a final decision on the request. If you have any comments, please respond by March 2, 2015. Thank you for your cooperation.

Sincerely,


John Bullard
Regional Administrator





This document is scheduled to be published in the Federal Register on 02/23/2015 and available online at <http://federalregister.gov/a/2015-03539> and on FDsys.gov

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XD775

**Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries;
Application for Fishing Year 2014 Sector Exemption**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: Several groundfish sectors have requested regulatory exemptions from two recently implemented Gulf of Maine cod interim management measures. The Regional Administrator, Greater Atlantic Region, NMFS, has determined that the request warrants further consideration. We are seeking public comment on these exemption requests.

DATES: Comments must be received on or before *[insert date 7 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments by the following methods:

- *Email:* william.whitmore@noaa.gov. Include in the subject line "Comments on Gulf of Maine Cod Sector Exemption Request."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Gulf of Maine Cod Sector Exemption Request."

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fisheries Policy Analyst, 978-281-9182, william.whitmore@noaa.gov.

SUPPLEMENTARY INFORMATION:

On November 13, 2014, NMFS published a temporary rule to enhance protections for Gulf of Maine (GOM) cod (79 FR 67362) in response to an updated GOM cod stock assessment that indicated the health of the stock is worsening. The GOM cod interim rule implemented a GOM cod trip limit of 200 lb (90.7 kg) for sector and common pool groundfish vessels fishing within the GOM broad stock area (BSA) and restricted commercial limited access groundfish vessels that fish in the GOM BSA to fishing only in that BSA for the duration of the declared trip. Additional information on the GOM cod interim rule can be found online at

www.greateratlantic.fisheries.noaa.gov/stories/2014/GOM_cod_interim_management_measures.html.

On February 9, 2015, we received an exemption request from several sectors. These sectors worked together to assemble 30 mt of GOM cod annual catch entitlement (ACE), which was traded to Northeast Fishery Sector IV, a lease-only sector with no active fishing effort. That sector has proposed to withhold and render unusable that GOM cod ACE, including preventing its use for potential carryover to the next fishing year, if sectors are granted regulatory exemptions from the GOM cod trip limit and GOM BSA restriction.

The 200-lb (90.7-kg) trip limit was intended to reduce the incentive to target GOM cod in areas that would remain open under the interim action to ensure that open-area catch would not result in excessive GOM cod fishing mortality. The 2014 GOM

Cod Interim Rule environmental assessment (EA) estimated that implementing the 200-lb (90.7-kg) trip limit would likely reduce GOM cod mortality by 20 mt. The sectors' request would reduce the GOM cod catch limit by 30 mt. Economic modeling and simulations included in the EA suggest that there is a substantial amount of uncertainty regarding the 20-mt estimated mortality reduction. It should also be noted that most of the public comments submitted in response to the GOM cod interim rule opposed the implementation of a trip limit because trip limits can result in high discards of GOM cod and are counter to the sector system, which limits the fishery based on an annual quota. The requesting sectors propose that a definite 30-mt reduction in the catch limit resulting from the sector exemption would provide a greater biological benefit to GOM cod than the probable reduction in mortality from the 200-lb (90.7-kg) trip limit. Removing the trip limit, as requested by the sectors, would provide a clear limit on overall catch of GOM cod and should minimize regulatory discarding.

The requested exemption would also remove the restriction preventing vessels from fishing both inside and outside of the GOM BSA on the same trip. The sectors requesting the exemption have argued that the single BSA restriction has severely impacted fishing operations of vessels that traditionally fish on Georges Bank and in the GOM on the same trip. Although recognizing that the single BSA restriction impedes flexibility to fish in multiple stock areas on a trip, we previously determined that the short-term benefits of this measure were necessary to achieve the interim rule's objective of reducing mortality and ensuring the effectiveness of other measures in the interim rule. Specifically, the single GOM BSA restriction was intended to facilitate more effective shore-side enforcement of the 200-lb (90.7 kg) trip limit. It was also intended to help

reduce the opportunity for vessels to misreport their catch to ensure that GOM cod catch would be properly accounted for between stock areas.

Reducing the overall catch limit by 30 mt and removing the trip limit more effectively achieves the interim rule's objective of reducing potential cod mortality and, along with additional reporting measures, outweighs the short-term benefit of retaining the single BSA restriction. If the trip limit is no longer in effect, there is less of a need for the GOM BSA restriction to facilitate dockside enforcement.

In consideration of the sectors' request to be exempt from the BSA restriction, we are proposing to replace this requirement with daily catch reporting requirements should we approve the sectors' request. We would still require that sector vessels that declare their intent to fish inside and outside of the GOM BSA on the same trip submit daily vessel monitoring system (VMS) catch reports. Vessels would also be required to submit a VMS catch report prior to moving fishing operations from one BSA to another. This additional reporting requirement would help ensure that catch is properly accounted for. The removal of any incentive to misreport trip catches in relation to the trip limit along with additional reporting requirements to help ensure proper apportioning of catch between BSAs replaces or mitigates the loss of the short-term benefits expected from the single BSA restriction.

When NMFS implemented the interim rule in November 2014, it did not take any action to reduce the GOM cod ACL or ACE allocated to sectors. During public discussion at the September Council meeting at which the Council requested the agency to develop emergency measures for GOM cod, it was clear that any unilateral action to reduce the ACE available to sectors in the middle of the fishing year could have

substantial economic impacts to much of the industry. However, in terms of effecting mortality reductions, a change to the ACE available for harvest by the sectors is generally the most effective and direct means to reduce total potential catch. Instead, NMFS imposed a trip limit to reduce the incentive to target GOM cod within the ACE available, recognizing that if the industry continued to encounter GOM cod, mortality would continue largely through regulatory discarding, potentially up to the full allocated ACE level. Although the analysis supporting the interim measures suggested the trip limit could reduce mortality by approximately 20 mt, there was considerable uncertainty around this estimate, primarily due to uncertainty with the amount of discarding that would occur.

In this request for a sector exemption, the sectors are proposing to implement what NMFS did not: a reduction to the ACE available to those sectors for the remainder of the fishing year. Because the fishing industry will continue to fish through the end of the fishing year, and will continue to encounter GOM cod, the sectors' proposed exemption would establish a firm upper limit on total cod mortality and is more likely to be lower than would otherwise be achieved through the interim measures. In addition to an actual reduction in the total potential cod catch, the sectors' proposed exemption would improve the catch yield and reduce the uncertainty of that cod catch.

This exemption would apply only for the remainder of the 2014 fishing year. It is our intent to continue reviewing sector exemption requests included in annual sector operations plans through a proposed and final rulemaking process. However, future mid-year exemption requests, or modifications to existing exemptions, may be considered,

and granted or denied, through a shortened notice and comment process similar to this action.

If we can conclude that the exemption request is at least conversation neutral, and if this request is granted, this exemption will apply to all sectors who request it, and sector operations plans and letters of authorizations will be modified to include these regulatory exemptions. Minor sector exemption modifications may be granted without further notice if they are deemed essential to facilitate these exemptions and have minimal impacts that do not change the scope or impact of the initially approved sector exemption request.

A supplemental information report analyzing the environmental impacts of this exemption request has been developed and is available online for review at

<http://www.greateratlantic.fisheries.noaa.gov/regs/>.

Authority: 16 U.S.C. 1801 et seq.

Dated: February 13, 2015.

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

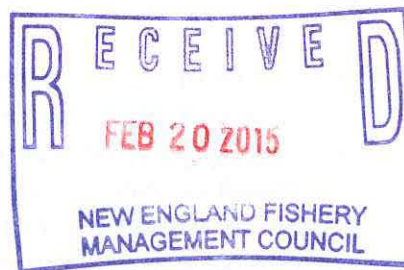
[FR Doc. 2015-03539 Filed 02/18/2015 at 4:15 pm; Publication Date: 02/23/2015]

3



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

FEB 13 2015



Mr. E.F. "Terry" Stockwell III, Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Terry:

On January 29, 2015, the Council passed several motions and consensus statements made by its Recreational Advisory Panel (RAP) as recommendations for me to consider for the Northeast multispecies recreational fishery for fishing year 2015, including Motions 2 and 3 below. I request the assistance of the Council's Groundfish Plan Development Team and the Scientific and Statistical Committee to explore mechanisms for using different discard mortality rate assumptions for catch with different gear requirements, as recommended by the RAP and by the Council.

Motion 2 specified gear requirements to reduce discard mortality of GOM cod and haddock, and Motion 3 recommended proactive accountability measures for GOM haddock.

Motion 2:

For the purposes of reducing discard mortality on GOM cod and haddock, the RAP recommends prohibiting the use of more than two hooks per line while fishing for groundfish in the GOM. Only inline circle hooks may be baited. When using a jig or artificial lure, only single point j-hooks may be used (e.g., no treble hooks). Teasers, feathers, flies etc. may be used but count toward the use of no more than two hooks per line.

Motion 3:

In light of no possession on cod and expected declines in effort (including consideration of Motions 1 and 2 and the above consensus statements), the RAP recommends that proactive AMs for GOM haddock in FY 2015 be a bag limit of at least 4 fish, a 17 inch minimum fish size, and closed seasons during wave 2 (March 1 to April 30) and wave 5 (September 1 to October 31).

According to the bioeconomic model, the proactive accountability measures the Council recommended (Motion 3 above), by themselves, would not reduce GOM cod catch below the 2015 recreational sub-ACL. Motion 3 was based on a model run that assumed decreased recreational discard mortality rates for GOM cod and haddock of 10 percent and 25

jcl/jp/pmf 2/20/15



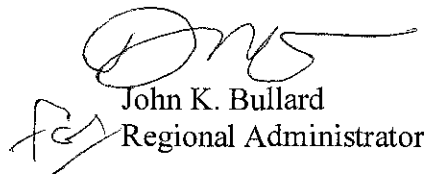
percent, respectively. As you are aware, the stock assessment used recreational discard mortality rates for GOM cod and haddock of 30 percent and 50 percent, respectively, based on the gears currently allowed. At present, we also use these discard mortality rates in monitoring the sub-ACLs in this fishery.

Motion 2 recommends gear restrictions to reduce discard mortality in the recreational fishery. Unless we can justify new recreational discard mortality rates for monitoring the sub-ACLs based on the proposed gear requirements, we may need to proactively close the recreational GOM haddock fishery to minimize the risk of exceeding the GOM cod sub-ACL. Given this, it is important that we consider additional information in evaluating proactive management measures, such as gear restrictions.

As I explained at the meeting, there is a recent study (Mandelman, et. al., 2014¹) of recreational discard mortality for cod in the GOM, but this study has yet to be peer-reviewed or published. Additionally, there is a large body of work on the effect of circle hooks on discard mortality. A determination would need to be made that this information is scientifically valid for the agency to use this for making management decisions going forward. To that end, I request the assistance of the Groundfish Plan Development Team and the Scientific and Statistical Committee to explore mechanisms for using different discard mortality rate assumptions for catch with different gear requirements, as recommended by the RAP and by the Council. Without this assistance, it would be difficult to justify the proposed gear requirements as a basis for the Council's recommended proactive accountability measures.

If you have any questions or concerns, please contact Mark Grant at 978-281-9145.

Sincerely,



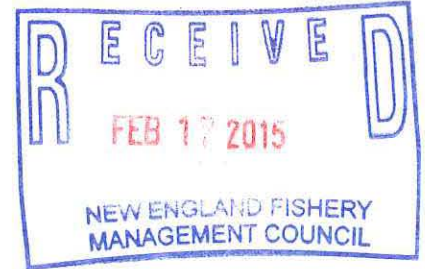
John K. Bullard
Regional Administrator

¹ Mandelman, J., C. Capizzano, W. Hoffman, M. Dean, D. Zemeckis, M. Stettner, and J. Sulikowski. 2014. Elucidating post-release mortality and "best capture and handling" methods in sublegal Atlantic cod discarded in Gulf of Maine recreational hook-and-line fisheries. Bycatch Reduction Engineering Program (BREP) report.



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

FEB -6 2015



Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

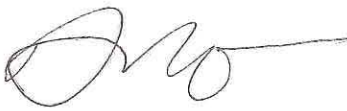
RE: Comments on Framework Adjustment 53 to the Northeast Multispecies Fishery
Management Plan

Dear Tom:

The Council submitted a preliminary draft of Framework 53 on January 16, 2015. We completed an expedited review of the draft document, and attached are substantive comments that must be addressed to ensure the document is consistent with applicable law. Additionally, as you noted with the preliminary submission, the draft document does not contain the Regulatory Impact Review or the Initial Regulatory Flexibility Analysis, and these sections are required for formal submission.

Our staffs have already discussed the attached comments, and have coordinated on how to best incorporate the necessary changes. If you have additional questions on the comments provided, or on the review of Framework 53, please contact Sarah Heil at (978) 281-9257. We appreciate your quick turnaround of this document, given the compressed timeline for this action.

Sincerely,


for John K. Bullard
Regional Administrator

Attachment



Framework Adjustment 53
Substantive Comments

Section		Page	Comment
3.2	Purpose and Need	24	<ul style="list-style-type: none"> • Include <i>revision of Gulf of Maine rolling closures cod protection areas</i> as a purpose of this action • Include <i>reduce mortality on spawning aggregations of Gulf of Maine cod</i> as a need of this action
4.2.1.1.2	Additional Gulf of Maine Cod Spawning Protection Measures	42	<ul style="list-style-type: none"> • Clarify how these measures differ from the existing Gulf of Maine rolling closures
4.2.2.2	Percentage Rollover Provisions for Specifications	54	<ul style="list-style-type: none"> • Clarify the Council's intent if the default specifications (35%) exceed the recommendations for the upcoming fishing year and include additional narrative in the appropriate impacts sections • Make a distinction between the rationales provided for the various sub-Options
5.0	Alternatives Considered and Rejected	35	<ul style="list-style-type: none"> • Remove the No Action alternatives • Provide an explanation of why each measure did not meet the Purpose and Need of this action • Include a brief narrative on the provisional Scientific and Statistical Committee recommendation of 200 mt for Gulf of Maine cod
6.4.3	Affected Environment – Protected Resources	105	<ul style="list-style-type: none"> • Incorporate revised language provided by Regional Office staff
7.1	Biological Impacts	205	<ul style="list-style-type: none"> • Remove “minor” from the last sentence of the first paragraph
7.1.2.1.1	Gulf of Maine Cod Spawning Area Closures	218	<ul style="list-style-type: none"> • Include a qualitative description of how the anticipated impacts differ from the existing Gulf of Maine rolling closures
7.1.2.1.3	Gulf of Maine Cod Protection Measures	222	<ul style="list-style-type: none"> • Narrow down the overall impact conclusion of the protection closures (to the extent the information will allow) • Provide additional narrative on impacts of these measures and benefit of winter vs. spring spawning protection • Include discussion of interplay between these measures and low Gulf of Maine cod catch limit

Section		Page	Comment
			<ul style="list-style-type: none"> • Discuss potential effort from exempted fisheries and exempted gear in the closure areas and how it would affect the expected biological impacts • Include a summary of the combined impacts of the protection closures and zero possession for recreational fishery
7.3	Impacts on Endangered and Other Protected Species	238	<ul style="list-style-type: none"> • Incorporate revised language provided by Regional Office staff
7.6.2	Past, Present, and Reasonably Foreseeable Future Actions	303	<ul style="list-style-type: none"> • Provide a brief discussion of the measures included in the draft Omnibus Habitat Amendment
7.6.4	Summary Effects of Framework 53 Actions	316	<ul style="list-style-type: none"> • Provide additional description of the Gulf of Maine cod protection measures included in this action



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

February 20, 2015

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

RE: Formal Submission of Framework 53 to the Northeast Multispecies (Groundfish) Fishery Management Plan (FMP)

Dear John:

Today, my staff electronically sent the formal submission of Framework Adjustment 53 (FW 53) to the Northeast Multispecies (Groundfish) Fishery Management Plan (FMP), including the Environmental Assessment (EA), and associated Appendices (4 total) to your staff in the Sustainable Fisheries Division at the Greater Atlantic Regional Fisheries Office. Six paper and one CD copy are included with this letter.

The measures proposed in FW 53 revise the status determination criteria for Georges Bank (GB) yellowtail flounder, set specifications for pollock, Gulf of Maine (GOM) winter flounder, GB winter flounder, GB yellowtail flounder, GOM haddock and GOM cod and US/CA stocks (GB yellowtail flounder, Eastern GB (EGB) cod, and EGB haddock). FW 53 also includes management measures that would prohibit the possession of GOM cod by recreational anglers, and modify the suite of existing rolling closures in the GOM for commercial sector and common pool vessels in the commercial fishery. The intent of this measure is to increase protection for GOM cod in winter months by adding the winter closures, and to create more economic opportunities for the commercial fishery to access healthy stocks in the spring by opening up the April closure. Additionally, measures would include the establishment of default groundfish specifications and revisions to carryover provisions.

After reviewing the comments received by my staff on February 6, 2015 on the preliminary submission sent on January 16, 2015, the document has been updated to incorporate all changes requested including additional minor editorial changes. One exception is that in our preliminary submission cover letter we specified that a portion of the economic impact section would be moved into an appendix. Due to the need to expedite our submission, we did not alter the structure of economic impact section.

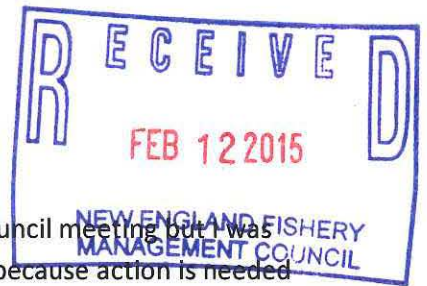
Upon review of the Framework 53 document, please communicate any comments and/or need for further document revision directly to me. Please contact me if you have questions.

Sincerely,

Thomas A. Nies
Executive Director

A Tale of two pictures

I had intended to give this as an oral presentation at the January Council meeting but I was prevented from attending by an illness. The subject cannot wait until April because action is needed immediately. This was a visual presentation which loses some of its power in writing, my apologies.



Source: <http://www.gmri.org/our-work/research/projects/ecological-diversity-cod-gulf-maine-and-its-role-resiliency-fishery>

This is a picture of approximately 2000 lbs. of cod. It represents the first time I have targeted cod in two years. While one picture does not determine the status of the stock it is a powerful illustrator of our current assessment shortcomings. This presentation is on Gulf of Maine Cod but the problems it illustrates cut across numerous species. By way of background, this was a one hour research tow in an open area. I travelled 20 miles to make this tow and it represents the first area that had not been taken over by lobster traps. This alone is cause for concern because most of the Gulf of Maine is now defacto

2/13/15

closed to commercial fishing and the trawl survey, by the proliferation of fixed gear. The fact is, none of us now know how many cod exist because no one, including the NOAA trawl survey can fish here.

Now, consider the following facts that can be measured from this picture.

1. Based on a letter of January 20, 2015 to Groundfish permit holders, from NOAA fisheries, I will be granted sufficient cod to fish 1.3 hours with my three permits. ($2742\text{lbs}/2000\text{lbs per hour} = 1.37\text{ hours}$)
2. One 40 foot boat, such as mine, could catch the entire Gulf of Maine Cod quota in 9.5 days. ($456,356\text{ lbs.}/2000\text{ lbs. per hour} = 228.178\text{ hours divided by }24 = 9.5\text{ days}$)

If, as an individual, you think this makes sense, in light of this picture, then read no further.

Read on to learn what clues this picture holds....

Why have you not seen this in commercial tows?

1. This tow would be considered a complete failure under sector management.
2. The fish pictured here represent about \$3000 in December prices
3. The cost of leasing these fish (remember you lease the guts and assumed discards also) would be \$4000-\$4500.

Thus this tow represents a loss of around \$1500 to the fisherman. The extortionate price of leased fish is hopelessly skewing fishery dependent data. Until the council deals with the high cost of leased fish across a number of species, fishery dependent data will not be representative of the status of the fishery.

- Why does fishery dependent data matter?
Fishery dependent data provides much of the information such as length frequency and CPUE that tune most models. Many regions and other entities including ICES, other than New England, use CPUE indices to derive and or tune assessments. Scientists from these entities and regions have been begging for data similar to our study fleet, but here it is not used.
Why?
- When did fishery dependent data become altered?
The advent of closed areas, trip limits, and then sectors began in 1996. A wide array of assessments subsequently suffered large and growing retrospective patterns. I do not believe the two are coincidental!
- NOAA Fisheries state repeatedly that serious age truncation has appeared in the fishery.
What does the picture show?
This picture represents at least four and possibly up to seven different year classes. I will wait

for the aging study to be completed because length alone does not determine age in cod. What is remarkable about this picture is that it comes from an area not usually associated with older year classes. Fishermen report seeing, older cod, sometimes over ten years old, further off shore and in deeper water than years past. This is just one of the effects of the warming of the waters in the Gulf of Maine which is not being accounted for.

- Why does length frequency change with tow length? Generally, in research tows researchers tow 30 minutes to get a representative sample of the ages present. This is because domed selectivity occurs in which older fish outswim the trawl during haulback. The tow length in the trawl survey was changed from 30 minutes with the Albatross to 20 minutes with the Bigelow, yet NOAA Fisheries refuses to admit domed selectivity exists.
- Council member Peter Kendall has examined the Yankee Fishermen's Coop landings by market category, large cod, market cod and scrod. During a twenty year period ending in 2014, there is remarkable consistency in the percentage of each group. If there is age truncation, why is it not reflected in the landings?

NOAA Fisheries and the NGO's, through their press releases, have repeatedly stated fishermen are catching the last huddled masses of cod and go on to compare the Gulf of Maine to Newfoundland. Comparing these two regions is like comparing apples and watermelons. Newfoundland invented icebreaker trawling which targeted spawning aggregations previously protected under the ice. No such technological advance occurred here. The same week I caught these fish, boats doing research in Massachusetts Bay for Massachusetts Division of Marine Fisheries and the Nature Conservancy caught 200-1000 pounds of cod for tows of five minutes to twenty minute in length. These areas included the Olympia tow, top of Stellwagon Bank, edge of the bank, and deep water west of the bank as well as all along the Massachusetts shore. They were unable to make tows of sufficient length to get representative age samples because the entire bay was covered with lobster gear. The only other boat fishing from my harbor had a tow with between 2500 and 4000 pounds of cod for an hour while trying to catch yellowtail ten miles southeast of my location. He pulled the tripper and let the fish swim away because of the 200 pound trip limit imposed by the interim action. Finally an offshore gillnetter fishing on Parker's, which for those of you who do not know, is closer to the Hague line than the coast of New England, reported an "idiotic" cod discard rate shoaler than 80 fathoms and only a "disgusting" cod discard rate for the remainder of their five day trip below 80 fathoms. The recreational fishery caught its quota for the year in a month and Gulf of Maine cod continue to be caught in large numbers recreationally off Block Island. So where precisely are these last huddled masses of cod or more precisely, where do you fish not to catch cod?



Cover photo courtesy *National Fisherman*

This picture was taken the same month in a different year 100 yards from picture one. This is a commercial tow and represents what I caught in December 2014. Why the difference? Picture two has only a few cod and other fish I have to lease. It represents about \$800 worth of lobster, finfish and

dogfish. The picture illustrates why fishery dependent data has become so skewed by leasing. As a fisherman, I would fish for picture one, but as a businessman I am forced to fish for picture two.

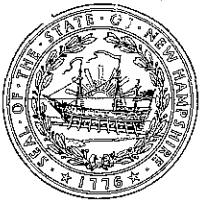
Why else is this picture important? The difference between pictures one and two shows why you cannot rely on a trawl survey for your only source of information. Which picture represents the true status of the stocks? The answer is neither as they are both representative of the same strata. With this kind of variation over 100 yards you cannot expect to accurately measure the biomass, with one tow every roughly 7500 square kilometers.

Very shortly, after May 1, both commercial and recreational fishing will be halted because of the latest flawed assessment. Cod is the poster child, but many other assessments are in a similar state of dysfunction. ***I request a blue ribbon panel made up of scientists(both NOAA and non-government scientists) and fishermen be put together to set ad hoc interim quotas to be implemented on an emergency basis by NOAA Fisheries while the same group tries to come up with a comprehensive method of proceeding with assessments in the future.***

Fishermen have said repeatedly that the science is broken. This is a poor choice of words as fishermen often use science, scientists, and models interchangeably to describe a broken process. The problem, as I have tried to illustrate in this narrative, is that numerous data streams have become incrementally flawed over time. The science and management communities have not been able to holistically examine this problem because they spend all their waking moments trying to meet the mandates of a fatally flawed Magnuson Act. In the early 2000's Dr. John Boreman, in a meeting over flaws in the trawl survey, stood up and said the system was broken and could not be fixed. This personal courage ushered in a period of cooperation in which we all worked together. Who, in this decade, has the personal courage and integrity to make the same statement so we can all fix a broken process?

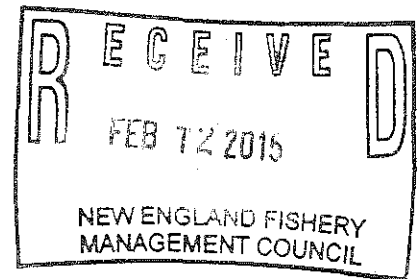
Respectfully submitted,

David Goethel
F/V Ellen Diane
Hampton, NH



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

MARGARET WOOD HASSAN
Governor



February 6, 2015

The Honorable Penny Pritzker
Secretary, US Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Pritzker:

I am writing to express my support for the approval of Framework Adjustment 53 to the Northeast Multispecies Fisheries Management Plan and ask that final approval on the framework be given as soon as possible to ensure that current temporary measures are lifted and our commercial and recreational fishermen can adequately plan for the coming fishing year.

The current temporary measures in place for the Gulf of Maine Cod and Haddock Fishery are causing great uncertainty and economic strain to our already stressed fishing industry, and an extension of the temporary measures would greatly increase that uncertainty and economic difficulty. The swift approval of Framework 53 will help to relieve some of the economic burdens our fishermen are facing, while still balancing the need to ensure sustainable fishing practices and healthy stocks.

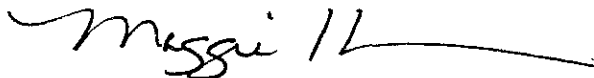
I also ask that in developing and approving future temporary measures and framework adjustments, we ensure that all parties – including local fishermen, regional fishery councils, state and federal officials, and fishery biologists – work closely together to create an appropriate, science-based balance between conservation efforts and local economic needs.

I urge you to carefully consider both the environmental and economic consequences that the rejection of Framework 53 and an extension of the current temporary measures will have on our coastal communities that rely on a thriving fishing industry and strongly urge for the swift approval of the framework.

Jckip - 2/18/15

Thank you for your consideration. I look forward to continuing to work with you on this important issue.

With every good wish,

A handwritten signature in black ink, appearing to read "Meggi H", with a long horizontal flourish extending to the right.

Margaret Wood Hassan
Governor

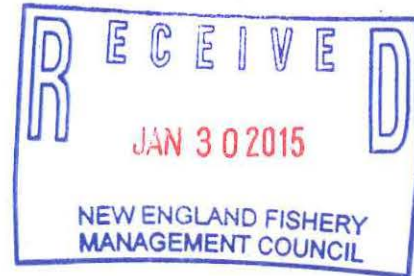
CC:

Dr. Kathryn Sullivan, Under Secretary of Commerce for Oceans &
Atmosphere and NOAA Administrator
Eileen Sobeck, Assistant Administrator for Fisheries, NOAA Fisheries
John Bullard, Regional Administrator, Greater Atlantic Region, NOAA Fisheries
Thomas Nies, Executive Director, New England Fishery Management Council
Terry Stockwell, Chairman, New England Fishery Management Council



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

January 30, 2015



Mr. E. F. Stockwell, III
Chairman
New England Fishery Management Council
50 Water Street; Mill 2
Newburyport, MA 01950

Dear Terry:

Thank you for your December 2, 2014, letter which acknowledged all of the cod stock assessments that have been conducted by the NEFSC in recent years, and also expressed the need for additional Atlantic cod research focused on stock structure, the effects of climate change, and natural mortality. As you know, we will be updating the assessments for both Georges Bank and Gulf of Maine in September 2015.

Questions regarding stock structure, climate change effects, natural mortality, and other factors related to the productivity, distribution, and abundance of cod stocks were discussed during these reviews and have been investigated to varying degrees by Center scientists and our research partners. We believe that a systematic approach is necessary to allow us to refine the questions that should be answered before new benchmark (or research track) assessments are conducted for these stocks. It will then be possible (again, in conjunction with our research partners) to prioritize and schedule the necessary research, and work with the NRCC on timing of the assessments.

Within the NEFSC, I have established a steering group to focus on interdisciplinary, cross-cutting research to support stock assessments (CEHASG, or Climate, Ecosystem, and Habitat Assessment Steering Group). This group will be meeting soon to develop an NEFSC perspective regarding Atlantic cod assessment research needs and priorities. When this is complete, we would like to work with the Council to schedule a workshop to seek broader stakeholder input on this document and develop some initial timelines for completing the work. This would be used to brief the NRCC.

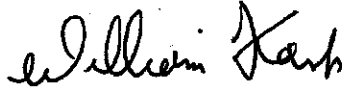
During this planning and prioritization process, it will also be important for us to consider other demands placed on Center staff in support of the New England Fishery Management Council, our other NRCC partners, and our broader research priorities. It will also be important to recognize the roles that Council staff, the NEFSC SSC, research partners, and stakeholders will be asked to play.



cbk/jpl/jc

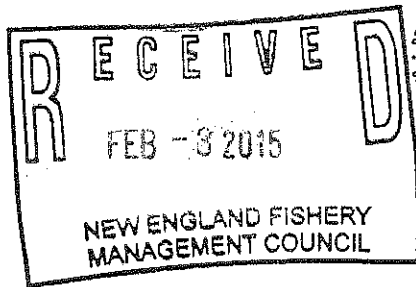
We look forward to working with the Council on the challenges associated with assessment of regional Atlantic cod stocks and to the opportunity to better understand the changing ecosystems they inhabit. I am confident that the scientific information we provide through this process will support improved management and conservation of these important groundfish stocks.

Sincerely,

A handwritten signature in black ink, appearing to read "William Karp". The signature is fluid and cursive, with the first name "William" and the last name "Karp" clearly distinguishable.

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

cc: T. Nies
C. Moore
J. Bullard



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

January 9, 2015

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

Dear Tom:

Thank you for your letter dated November 7, 2014, requesting information on the bycatch of cod in the region's lobster fisheries.

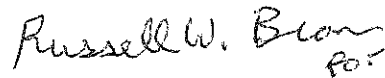
Estimates of discards based on data available from the Northeast Fisheries Observer Program (NEFOP) and the Greater Atlantic Region Vessel Trip Reports (VTR) have to date proven insufficient to reliably estimate a time series of cod bycatch in the Gulf of Maine, Georges Bank, or Southern New England lobster fisheries. The estimates differ between the sampling programs both within and across years, and are in part a reflection of the relatively small number of observed trips compared to the large area covered by and amount of gear in the lobster fishery. Observed trips under NEFOP have increased in recent years, and we hope to gain additional insights on the magnitude and variability of cod and other groundfish encounters in lobster gear.

The future development of reliable estimates of cod bycatch in the lobster fisheries will require continued, and perhaps increased, NEFOP sampling of the offshore lobster trap fisheries, as well as any available contributions of data and analysis from all of the New England states for fisheries in state waters. For the Gulf of Maine fishery, the Maine Department of Marine Resources has provided most of the data that are currently available, and is in the process of analyzing those data (as referenced in the letter from Keliher to Stockwell dated November 17, 2014). However, since the bulk of the Gulf of Maine lobster fishery is to the north and east of the Gulf of Maine cod population that is now concentrated in the western Gulf of Maine, in the future Massachusetts and New Hampshire sampling efforts may provide more relevant information on cod bycatch in the corresponding western Gulf of Maine lobster fishery. We concur with Mr. Keliher that the best avenue for future work on this issue is through a collaborative effort of the Council's Groundfish PDT and the Atlantic States Marine Fisheries Commission's (ASMFC) Lobster Technical Committee and Lobster Board. For the inshore lobster fisheries in Southern New England waters, it will likewise be necessary to work cooperatively with the relevant state fisheries agencies that participate in the regulation of those fisheries (i.e., Massachusetts, Rhode Island, Connecticut, and New York) through the Groundfish PDT and ASMFC Lobster Technical Committee and Board.



Finally, we note that the NEFSC, in collaboration with Massachusetts Division of Marine Fisheries and University of Maine partners, has submitted a proposal to the 2014 Cooperative Research Solicitation designed to quantify the barotrauma-induced mortality experienced by cod in the Gulf of Maine lobster fishery.

Sincerely,

A handwritten signature in cursive script that reads "Russell W. Beal". Below the signature, the letters "R.W." are written in a smaller, more formal script.

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

cc: R. Beal
J. Bullard
C. Moore

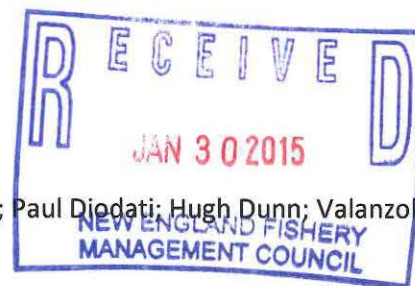
From: Michael Pierdinock [<mailto:cpfcharters@yahoo.com>]

Sent: Friday, January 30, 2015 3:07 PM

To: John Bullard

Cc: Mark Grant; Michael Ruccio; Tom Nies; Barry Gibson; Frank Blount; David Pierce; Paul Diodati; Hugh Dunn; Valanzola Jared (SEN); Thomas Benjamin (HOU); Charlie Wade; Dave Waldrup

Subject: MRIP Recreational Quota for 2015



Dear John

I had a long talk with Scott Steinback, NMFS Woods Hole about the model used for the cod and haddock recreational estimates for 2015. The concerns that I had are consistent with what was noted in my correspondence during the public comment period and as stated during my testimony at the RAP. Scott was able to provide me the details to understand the model used and multiple model runs conducted.

The MRIP data of the haddock and cod landed by anglers is subject to a 50% Proportional Standard Error (PSE) that is very similar to variance. Yes that is correct 50% PSE! An acceptable PSE in the past is typically 20%. From a statistical standpoint 50% PSE is indicative of poor data set associated with the MRIP process and therefore, the data is not statistically valid.

As stated in the memorandum, NMFS had to conduct multiple algorithms or model runs to make the model work since the model has underestimated landings the past two years. The model attempts to mirror the MRIP landing data. The model is likely underestimating the landings because the data used from MRIP has a 50% PSE. I have not faith in the numbers. The 50% PSE is indicative of data that is not statistically valid.

Ultimately a bag limit of 3/4/5 haddock will result in no one leaving the dock. The fishing effort for 2015 needs to be significantly reduced since few anglers will leave the dock. The use of a LOA for the charter boat fleet (assume 10 haddock for 30 days as an example) will help but we are not confident the fleet will survive. We are being told a LOA cannot be implemented in 2015. If not the groundfish charter boat fleet is done.

VTRs should be used to estimate landings by the fore hire fleet, otherwise why do we continue to fill them out? Dockside interviews of recreational anglers fishing on charter boats is significantly flawed. The fish landing data should be based on the VTRs completed by the charter boat/fore hire fleet that will provide a more accurate data base of landings than dockside interviews of anglers.

More dockside interviews, on line recording or mailings to those with saltwater fishing license needs to be conducted of recreational anglers to reduce the interpolation used as a result of the MRIP interview process and to reduce the 50% PSE to a PSE that is indicative of statistically valid data. The saltwater fishing license should provide the funding necessary to conduct the interviews.

Additional discard mortality studies are needed for cod and haddock. Are there any studies scheduled for the immediate future? Who should I contact, any recommendations?

I look forward to hearing from you.

Thanks

Capt. Mike Pierdinock

CPF Charters "Perseverance"

Recreational Fishing Alliance - Massachusetts Chairman Stellwagen Bank Charter Boat Association - Board of Directors

Stellwagen Bank National Marine Sanctuary Advisory Council - Recreational Seat New England Fishery Management

Council - Enforcement Advisory Panel

(617) 291-8914

jc/jp - 2/4/15



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

MAR 27 2014

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Tom:

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

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

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

Catch History

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

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



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

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

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

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

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

Value of ACE/Quota Trading

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

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

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

Annual Reports

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

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

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

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

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

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

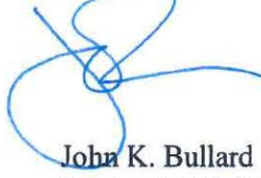
In defining a non-profit permit bank and its purpose, it will be important to differentiate the purpose of a permit bank from a sector and other entities allocated ACE, and how that difference relates to the need for release of the subject record. The Council should consider whether there are differences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

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

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

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

Sincerely,

A handwritten signature in blue ink, appearing to be "John K. Bullard", with a large loop and a horizontal stroke extending to the right.

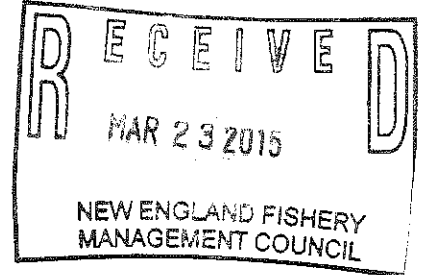
John K. Bullard
Regional Administrator



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

James Lovgren
F/V Shadowfax
17 Laurelhurst Drive
Brick, NJ 08724

MAR 19 2015



Re: Groundfish appeal letter for F/V Shadowfax (Permit # 320424)

Dear Jim:

Thank you for your letter asking that we further explore your vessel's landings history to see if you qualify for groundfish disaster assistance. When developing their consensus plan on how best to distribute the disaster funds, the marine fisheries directors from the affected states (i.e., the states that requested disaster aid) wanted to establish clear qualification criteria to enable this first portion of the assistance funds to be distributed quickly to active groundfish fishermen. The criteria they established states a vessel must have landed at least 5,000 lb of regulated groundfish during one of the four fishing years from 2010-2013 - if a vessel met that criteria, then the individual who owned the groundfish limited access catch history and eligibility as of April 30, 2014, would receive a groundfish disaster payment. The source of data used for determining a vessel's landings eligibility is the Federal dealer landings database because this is the official record of what a vessel actually landed. A vessel's trip report is not considered an official landings record since it is an estimate of what a vessel caught during a fishing trip. Further, fish caught during a research project are also not counted as official landings unless they are landed at a federally permitted fish dealer and reported through the research set-aside program.

The groundfish limited access catch history and eligibility currently associated with the F/V Shadowfax was owned by you on April 30, 2014, as a Confirmation of Permit History for F/V Viking II (Permit # 320536). Upon further review of all reported dealer landings of regulated groundfish species associated with your permit, we identified records confirming this vessel landed 3,915 lb of regulated groundfish during fishing year 2011, which is the most regulated groundfish this vessel landed during any year of the qualifying period. As a result, your vessel does not qualify for groundfish disaster aid under the criteria agreed to by the state directors.

I'm sorry that you feel as though you keep "getting screwed left and right", but I'm bound to the criteria established as part of the state consensus agreement. However, if you can provide dealer reports to supplement the landing information in our dealer database, please contact Anthony Conigliari at 978-281-9143, and he can discuss the process of correcting your landings data.

Sincerely,

John K. Bullard
Regional Administrator

Cc: Tom Nies, Chris Moore, Bob Beal

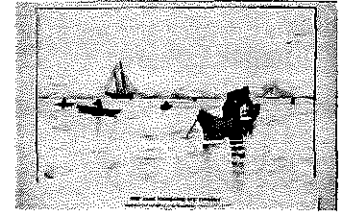


91 FAIRVIEW AVE
PORSTMOUTH NH 03801

March 25, 2015

New England Fishery Management Council MAR 26 2015
50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
Thomas A. Nies, *Executive Director*

**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**



Dear Tom Nies & Terry Stockwell:

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 some species of groundfish. 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 the GAP/Groundfish Committee and full NEFMC adopt the language contained in the PDT memo of March 18th 2015 concerning Amendment 18 as stated below:

Appendix I

PDT Suggestions for Alternate Language of Alternatives

**Section 4.2.1.2 Alternative 2: Establish a Fishery for Handgear A Permits
Carryover provision**

Up to 10% of unused HA sub-ACL would be able to be carried forward, provided that the total unused HA sub-ACL combined with sector sub-ACL carried forward for all sectors from the previous FY plus the total ACL does not exceed the ABC for the fishing year in which the carryover would be harvested (e.g., from FY 2015 to FY 2016). If the total exceeds the ABC, NMFS would adjust the maximum amount of unused carryover (down from 10%) to an amount equal to or less than the ABC of the following fishing year. The distribution in downward adjustment between sectors and the HA fishery would be proportional to the ACLs of these two subcomponents.

Rationale: This would create a carryover provision for the HA fishery and make it consistent with the carryover provision for sectors adopted through Framework 53, which was revised to be compliant with a 2014 ruling of the U.S. District Court for the District of Columbia. The ruling specified that a 'total potential catch' (the total ACL plus 10% unused ACE carryover) cannot exceed the ABC for any stock.

Section 4.2.4.2 Alternative 2: Sector Exemption from VMS Requirements

Under this alternative, vessels with a limited access Handgear A permit enrolled in a groundfish sector would be exempt from the requirement to use the Vessel Monitoring System while fishing on a sector trip (VMS). Vessels fishing with handgear in a sector must declare trips through the Interactive Voice Response (IVR) system.

Rationale: This alternative would allow the approach currently used for handgear vessels in the common pool to apply to those fishing in a sector. Vessels fishing with handgear in the common pool use the IVR system to declare a trip and then submit a Vessel Trip Report upon completion of a trip. There are costs associated with purchasing the VMS hardware, satellite connections, and data transmission, so this could be a lower-cost approach and may thus encourage participation in sectors by handgear vessels.

The NEFMC and the NMFS should be committed to doing what is necessary to maintain this fishery as they have done for other substance or small scale fisheries around the country.

Respectfully,

Marc Stettner /s/

NEHFA MEMBERS: Marc Stettner, Timothy Rider, AJ Orlando, 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.

iclio 3/27/15



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

March 24, 2015

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

RE: Framework Adjustment 53 Proposed Rule (80 Federal Register 12394)

Dear John:

On March 9, 2015, a Proposed Rule was published that requests comments on Framework Adjustment 53 (FW 53) to the Northeast Multispecies (Groundfish) Fishery Management Plan (80 Federal Register 12394). In general, the Proposed Rule matches the Council's intent.

The Federal Register notice seeks comments on several provisions that were included in Framework 53. This letter will provide comments on three of these provisions: the SSC's determination of the Gulf of Maine (GOM) cod catch limit, the monitoring provisions for the GOM cod annual catch limit (ACL), and the removal of April rolling closures through the proposed GOM cod protection measures.

GOM Cod Catch Limit

The proposed rule raises concerns about the SSC's and Council's recommendation for the GOM cod catch limit. The agency seeks comment on whether the ABC recommendation adequately addressed the potential for the stock to rebuild and the use of the best available scientific information and the scientific uncertainty associated with the assessment and catch projections. The notice provides a summary of the SSC discussion on this ABC. This was a thorough, detailed discussion by a diverse group of expert scientists from government, academic, and environmental organizations and from multiple disciplines. They deliberated these specific issues with the recent NEFSC stock assessments of GOM cod including the peer review reports, in hand, along with information provided by the Council's Groundfish Plan Development Team (PDT) and the fishing industry. Opportunities to examine these issues in full occurred at the peer review of the stock assessment, several Groundfish PDT meetings, two SSC meetings, two Groundfish Committee meetings, and two Council meetings, all of which were public meetings. From the standpoint of process, it is not clear to the Council how individual public comments on the ABC received during the comment period will be weighed against this comprehensive, transparent public process established by the Council and its partners on the Northeast Regional Coordinating Council. National Standard 2 guidelines require that the scientific information used for management should be developed in a manner that is transparent and open, and that allows for an inclusive, objective discussion of the issues. It is not clear how those standards will be met. I urge you to give great weight to the SSC's recommendations.

The SSC's recommendation of 386 mt for the GOM cod ABC for FY 2015- FY 2017 is supported by the information the SSC examined, including the stock assessment and PDT analyses of $F_{rebuild}$. As was thoroughly debated by the SSC using a range of possible ABCs to consider, two scenarios project that GOM cod would rebuild by 2024, while one scenario projects rebuilding would not be possible with no fishing at all. In addition, the SSC concluded that it would revisit the FY 2016 ABC for GOM cod following the 2015 groundfish updates. The Agency expressed concern that the proposed ABC may adversely affect rebuilding of this stock. For informational purposes, I provide the rebuilding catch and associated fishing mortality assuming a 2015 ABC of either 200 mt or 386 mt (see Table 1 and Table 2). Tables 1 and 2 illustrate that – subject to all of the uncertainties that have been noted with projections – there is very little difference between the scenarios in either future catches or future biomass.

Monitoring Provisions for the GOM Cod ACL

In light of concerns raised by the Agency regarding the apportionment of cod catch to the correct stock area, the proposed rule notes that you intend to further consult with the Council to explore additional reporting requirements, such as daily VMS catch reports for commercial groundfish vessels. While further discussions are welcome, the Council required daily VMS catch reporting through area-specific reporting requirements adopted in its October 16, 2009 final submission of Amendment 16 (see Section 4.2.4.1, p. 121). In the Amendment 16 proposed rule, the Agency acknowledged this proposal but proposed requiring trip-level VMS catch reports instead of daily VMS catch reports.

GOM Cod Protection Measures

The proposed rule suggests that supporting analysis was not available when the Council adopted the GOM cod protection measures. To clarify, in advance of the final Council meeting, the Groundfish PDT analyzed the impacts of several spawning closure configurations and zero possession of GOM cod for both the commercial and recreational fleets. The Council used this information to weigh the tradeoffs of implementing different management measures for each fleet. The proposed GOM cod protection measures include modifications to rolling closures for the commercial fleet and no possession of GOM cod by the recreational fleet in order to protect cod from mortality in certain times and areas, allow for protection of spawning cod particularly in the winter and spring, and allow the fleets to access healthy stocks. There was extensive information provided to the Council which characterized the likely impacts of the proposal.

In addition, the notice speculates on specific future Council actions after the 2015 assessment updates if the GOM cod does not improve. While the Council has a long record of taking action to rebuild GOM cod, it is premature to speculate on the specific measures that will be adopted. As is the purview of the Council, it may or may not consider modified closures to address any additional concerns raised about the GOM cod stock.

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

Sincerely,



Thomas A. Nies
Executive Director

cc: Allison Murphy, GARFO

Table 1- Rebuilding trajectory using 386 mt catch for FY2015. From the 2014 update stock assessment of GOM cod, SSBMSY for the M=0.2 model is 47,184 mt (32,903 - 67,045) and for the M-ramp model is 69,621 me (53,349 - 89,302).

Fmsy (F40%=Fmsy=0.18-->75%=0.14), recruitment modelled from CDF of 1982-2011 (model 21: hinge SSBused SARC55 hinge values, M=0.2: 6.3 kmt, M-ramp: 7.9 kmt); MCMC used geomean of 2009-2013 for t+1 recruitment
2024 = rebuilding horizon, Frebuild based on 50% probability

Harvest strategy	Year	Input	M=0.2 model			M-ramp model					
			No retro adjustment			M=0.2			M=0.4		
			Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}
2015 catch 386	2013	Model result	1,715	2,063	1.33	1,715	2,432	1.24	1,715	2,432	1.24
	2014	Assumed catch	1,470	2,690	0.80	1,470	3,009	0.76	1,470	2,832	0.85
	2015	catch	386	3,388	0.13	386	4,079	0.11	386	3,073	0.16
	2016	Frebuild	259	4,856	0.06	319	6,315	0.06	0	3,944	0.00
	2017	Frebuild	367	6,966	0.06	480	9,492	0.06	0	5,194	0.00
	2018	Frebuild	532	10,135	0.06	724	14,160	0.06	0	6,712	0.00
	2019	Frebuild	768	14,669	0.06	1,063	20,891	0.06	0	8,602	0.00
	2020	Frebuild	1,123	21,073	0.06	1,589	30,386	0.06	0	11,240	0.00
	2021	Frebuild	1,481	27,029	0.06	2,137	39,510	0.06	0	13,869	0.00
	2022	Frebuild	1,879	33,629	0.06	2,768	49,957	0.06	0	17,114	0.00
	2023	Frebuild	2,296	40,755	0.06	3,373	59,887	0.06	0	20,418	0.00
	2024	Frebuild	2,694	47,511	0.06	3,953	69,883	0.06	0	23,431	0.00

Table 2- Rebuilding trajectory using 200 mt catch for FY2015. From the 2014 update stock assessment of GOM cod, SSBMSY for the M=0.2 model is 47,184 mt (32,903 - 67,045) and for the M-ramp model is 69,621 me (53,349 - 89,302).

Fmsy (F40%=Fmsy=0.18-->75%=0.14), recruitment modelled from CDF of 1982-2011 (model 21: hinge SSBused SARC55 hinge values, M=0.2: 6.3 kmt, M-ramp: 7.9 kmt); MCMC used geomean of 2009-2013 for t+1 recruitment
2024 = rebuilding horizon, Frebuild based on 50% probability

Harvest strategy	Year	Input	M=0.2 model			M-ramp model					
			No retro adjustment			M=0.2			M=0.4		
			Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}
2015 catch 200	2013	Model result	1,715	2,063	1.33	1,715	2,432	1.24	1,715	2,432	1.24
	2014	Assumed catch	1,470	2,690	0.80	1,470	3,009	0.76	1,470	2,832	0.85
	2015	catch	200	3,425	0.07	200	4,115	0.06	200	3,111	0.08
	2016	Frebuild	269	5,025	0.06	329	6,484	0.06	0	4,090	0.00
	2017	Frebuild	378	7,147	0.06	491	9,672	0.06	0	5,330	0.00
	2018	Frebuild	544	10,347	0.06	736	14,380	0.06	0	6,859	0.00
	2019	Frebuild	784	14,965	0.06	1,079	21,213	0.06	0	8,798	0.00
	2020	Frebuild	1,146	21,486	0.06	1,614	30,820	0.06	0	11,526	0.00
	2021	Frebuild	1,506	27,481	0.06	2,164	39,970	0.06	0	14,182	0.00
	2022	Frebuild	1,904	34,059	0.06	2,795	50,404	0.06	0	17,433	0.00
	2023	Frebuild	2,322	41,142	0.06	3,396	60,266	0.06	0	20,728	0.00
	2024	Frebuild	2,719	47,876	0.06	3,974	70,220	0.06	0	23,690	0.00



Paul J. Diodati
Director

Commonwealth of Massachusetts

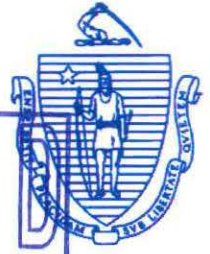
Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520

fax (617)626-1509



Charles D. Baker
Governor

Karyn E. Polito

Lieutenant Governor

Matthew A. Beaton

Secretary

George N. Peterson, Jr.

Commissioner

Mary-Lee King

Deputy Commissioner

March 19, 2015

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

Dear John:

We offer the following comments on your proposed rule for Framework 53. Once again your staff has done an exemplary job assembling and explaining all the logic behind the status determinations and what you intend to implement. However, your office raises all sorts of questions about Framework 53 that amount to a great deal of second guessing of Council decisions, including those based on SSC findings and conclusions. Consequently, much doubt as to your actual intent is introduced especially when you ask for comments on SSC decisions regarding the GOM cod acceptable biological catch.

For example, you request *"specific comment on how the proposed ABC would likely affect stock rebuilding particularly compared to an ABC-based on an $F_{rebuild}$ approach (sic)."* You ask for comments on *"how the proposed ABC would sufficiently offset the noted uncertainties and effectively control fishing mortality."* You highlight uncertainty, and that's appropriate, but the Council clearly understands the uncertainty and has weighed it against further crippling the groundfish fleet (especially small inshore vessels) by setting GOM ABCs and ACLs even lower thereby stripping away more opportunities for fishermen to catch other groundfish stocks, i.e., promoting serious "underfishing" and loss of OY.

Consider that you acknowledge: *"...GOM haddock and pollock catch limits could provide additional fishing opportunities for groundfish vessels to help mitigate (emphasis added) some of the economic impacts of the catch limit reductions proposed for other key groundfish stocks. However, the proposed reductions are expected to be very restrictive for groundfish vessels, particularly small inshore vessels, which could minimize these benefits...the proposed ABC is expected to have substantial economic impacts on groundfish vessels...Given current stock conditions, and all of the noted uncertainties in the stock assessment information, the*

proposed ABC would likely mitigate economic impacts, as much as possible, compared to other ABC alternatives that the SSC reviewed."

We conclude from these statements that you're acutely aware of the impacts of the 386 mt ABC for GOM cod, especially on small inshore vessels. Therefore, why do you appear to seek justification for a smaller ABC (e.g., 200 mt) with uncertainty as your justification? Why do you question the SSC ABC when you state: *"...although the proposed ABC is not based on an F_{rebuild} approach, the FMP and National Standard 1 give deference to the SSC to recommend ABCs that are departures from the established control rules..."*

We suspect all the debate about natural mortality and models used for determining allowable catch stems from *"no peer review body has concluded that any scenario is more plausible than another, and many of the uncertainties cannot be fully addressed until the next benchmark assessment is concluded."* Therefore, we agree with you that the proposed ABC is appropriate for now.

Moreover, we agree with your conclusion to wait until updated stock assessment information is provided later this year with possible re-specification of the GOM cod catch limit for fishing year 2016. With this in mind and optimistically, we plan to offer additional stock status information acquired through a GOM cod Industry-Based Survey we hope to begin in November, similar to the timing of our successful GOM cod IBS from 2003-2007.

We expect this survey (e.g., design and expectations) will be developed through a Working Group to meet early this spring. We anticipate NEFSC and GARFO participants in this Working Group, and we will look to your office for guidance and assistance. The survey should assist the NEFSC better ground-truth cod distribution data versus industry views and promote greater industry understanding/acceptance of assessment results whether promising or not. Indices of abundance, of course, will not be possible, but swept-area biomass estimates will be informative, especially estimates for the inshore portion of the GOM and in areas where many fishermen have claimed cod have been redistributed due to temperature influences.

Certainly, there is no easy "fix" to the assessment, especially if unreported catch is high. You correctly highlight our shared concerns *"...regarding apportionment of catch and the incentive to misreport catch on unobserved trips."* We agree with your decision to *"further consult with the Council on this issue to explore whether additional reporting requirements could help address the noted concerns."* Perhaps your office and the Council will consider that very low GOM cod quotas – forcing fishermen to lose important optimum yields from co-occurring stocks and to lose critical fishing revenue from those other stocks – likely will promote non-compliance. The 2009 paper by King and Sutinen ("Rational noncompliance and the liquidation of Northeast groundfish resources") is telltale.

We refer you to our earlier comments on your granting the GOM cod sector exemption from a trip limit (i.e., 200 pounds). Although we supported the exemption, we only did so with accompanying concerns about NMFS seemingly reversing its position on trip limits. We noted and repeat here: *"In the Interim Rule you stated: 'Approximately 25% of sector trips are subject to at-sea monitoring or observation. The remaining 75% of GOM sector trips are not monitored at sea. Very few fishermen report discards on their Vessel Trip Reports (our emphasis)...'"* "Fixing" the assessment with accurate catch information will be especially challenging.

We support the GOM cod protection measures as proposed for commercial and recreational fishermen. We do not share all your concerns about the proposed reconfiguration of the GOM closures. DMF was instrumental in developing the cod protection closures in

consultation with industry representatives seeking some time/area-access to other groundfish stocks and to lessen the socioeconomic impact on smaller inshore vessels. We believe the correct choices were made.

We've compromised with industry representatives on time/area closures because the GOM cod ABC will plummet on May 1, and we have to assume NMFS will accurately track catch especially in newly opened areas (such as in April). If not, then management objectives will not be met. GOM cod will not rebuild and eventually might share the same unwelcomed fate as cod stocks elsewhere.

Catch-share management for GOM cod with no trip limits for sector vessels is at a crossroads because now more than ever sector vessels must clearly demonstrate their ability and willingness to avoid cod. If not, stock size will continue to decline, and the fate of the New England groundfish fishery will be ever more dismal, despite haddock abundance.

Your office did a praiseworthy job describing why spawning protection is needed. You correctly identified the importance of spring-spawning cod to the entire GOM cod stock, even though ill-defined. We're very satisfied with how you frame your concerns – most of which we share. You clearly state: *"...the economic impacts analysis of the proposed closures indicates that these measures may provide some additional economic opportunities compared to the existing rolling closures. Although the analysis indicates that the economic benefits may be small, we recognize that, given the low catch limits for many groundfish stocks, even small increases in fishing opportunities are meaningful. This is particularly true for small vessels and the ports that would be most impacted by this action, and the proposed closures could help increase the viability of some inshore vessels..."* Well stated, but will it actually happen? Perhaps your next performance report will corroborate this expectation.

Your office also made an attempt to assess economic impacts of proposed measures and their alternatives. Of course, the Council did the same. Both had to make assumptions and work with limited data and ownership information. They are sincere attempts to assess what is about to befall the industry beyond the current situation with many fishermen no longer fishing and selling permits or simply leasing allocations.

Nevertheless, we doubt the validity of the following conclusion: *"For the commercial groundfish fishery, the proposed catch limits are expected to result in a 7% decrease in gross revenues on groundfish trips, or \$6 million, compared to predicted gross revenues for fishing year 2014."* Also, you predict Massachusetts will incur a revenue loss of just 8% as a result of the proposed limits.

In light of the anticipated calamity expected to begin on May 1, we consider this 8% to be a serious underestimate. Perhaps the smaller impact on New Bedford (your estimate of 6% revenue loss) inadvertently masks the substantial impact on Gloucester (up to 28%). It's difficult to reconcile the Massachusetts 8% loss contrasted with the projected impact on our major groundfish port and fishing community, i.e., Gloucester. We suspect the impact on Gloucester will skyrocket if you eventually decide not to open in April – an opening you appear reluctant to approve from our reading of the proposed rule. We favor the April opening with increased monitoring to better understand its consequences.

We conclude by suggesting you may have made an error regarding the benefit of the leasing market, i.e., increase gross revenues for some vessels (i.e., larger, offshore vessels). You state: *"...these small inshore vessels that are unable to fish would lease quota to larger vessels. The flow of quota to these larger offshore vessels, which are able to use it, is the primary reason*

why additional closures are predicted to result in higher gross revenues than the proposed action...”

We question whether larger vessels actually would benefit from the plight of smaller vessels having to lease away their allocations. It’s our impression that the leasing market no longer is adequately mitigating economic impacts. Unfortunately, the “2013 Final Report on the Performance of the Northeast Multispecies (Groundfish) Fishery (May 2013 – April 2014)” is inconclusive on this issue although the authors do say that the ACE trading market is not open or transparent. Nevertheless, ACE is *not* flowing seamlessly from lesser to lessee such that our fishery-wide catch limits are being met without leaving ACE from constraining stocks stranded. The model used to assess the economic impacts of FW 53 measures assumes a seamless flow as noted by the NEFSC Social Science Branch.

Furthermore, as noted in the document “Economic Impacts of Measures Considered in FW 53: *“The decrease in revenues per GOM cod ACE from 2012-2103 is especially worrying in light of the fact that GOM cod was a constraining stock in FY13. If cod become difficult for fishermen to avoid, these models will surely over-state aggregate revenues and under-state predicted losses for affected vessels, ports, and communities.”* With that said, we conclude your percent losses will be underestimates. GOM cod will be even more constraining, and if fishermen are correct, cod will be difficult to avoid.

Our last remarks provided above highlight our continued alarm about the fate of our groundfish fishery and our collective inability to properly assess and project socioeconomic impacts despite NEFSC best efforts. Now is the time for the Council and GARFO to act on recommendations from the Social Science Branch to require what it needs to adequately assess impacts. We recommend GARFO take the lead in identifying what is needed and how it can be acquired.

Thank you for all your attempts to mitigate the socioeconomic impacts of many low catch limits on the groundfish fleet. These impacts are sure to complicate Amendment 18 decisions regarding consolidation and excessive shares. We’re confident your office and the NEFSC are prepared to assist those decisions.

Sincerely yours,

David E. Pierce, Ph.D.
Deputy Director

cc

George N. Peterson, Jr.
Mary-Lee King
Paul J. Diodati
Daniel McKiernan
Melanie Griffin
Michael Petony
Michael Ruccio
Tom Nies
Terry Stockwell
Jamie Cournane



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

March 16, 2015

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

RE: Resubmission of Formal Submission of Framework 53 to the Northeast Multispecies (Groundfish) Fishery Management Plan

Dear John:

Today, my staff electronically sent a resubmission of the Environmental Assessment for Framework Adjustment 53 to the Northeast Multispecies (Groundfish) Fishery Management Plan to your staff in the Sustainable Fisheries Division at the Greater Atlantic Regional Fisheries Office.

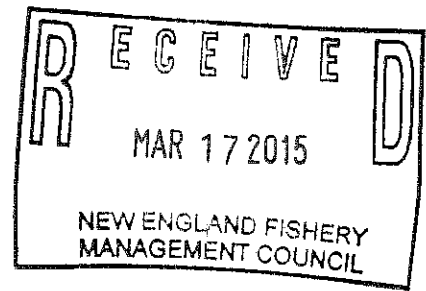
After reviewing the comments received by my staff on March 16, 2015 on the formal submission sent on February 20, 2015, the framework document has been updated to incorporate all changes requested. Additionally, minor typos were corrected and a few missing citations added in the Literature Cited section.

Please contact me if you have questions.

Sincerely,

Christopher Kellogg
Deputy Executive Director

From: Claire Fitz-Gerald
Sent: Tuesday, March 17, 2015 6:20 PM
To: John Bullard; Michael Pentony
Cc: Bill Karp; Tom Nies; John Pappalardo; Jim Nash
Subject: Meeting Request Re: ELM Gillnet Fleet



Dear John,

I am writing to raise an issue concerning observer coverage for the extra-large mesh (ELM) gillnet fleet on Cape Cod. This fleet consists of sixteen small, day-boat vessels that target skates and monkfish using 10- to 12-inch tie-down gear. **To date in Fishing Year (FY) 2014, the agency has spent an estimated \$406,800 deploying observers on 339 ELM gillnet trips for these vessels. Observer data for these trips documents a total of 606 pounds of groundfish catch with ELM gillnet gear.**

The level of observer coverage assigned to this fleet is excessive given its low levels of groundfish bycatch. Although we have raised this issue with NOAA in the past, the agency has not addressed it and, consequently, this fleet experiences the same level of coverage as vessels that are targeting and landing groundfish.

This inability to distinguish between groundfish vessels and vessels participating in other fisheries is indicative of the inefficiency of the current observer program. Deploying observers on vessels catching ~2 pounds of groundfish per trip when Gulf of Maine Cod is at 2% of its spawning biomass is a misallocation of the agency's limited monitoring funds; this is particularly true in light of NOAA's recent announcement that it cannot pay for monitoring in FY2015. Like many fleets in New England, this fleet cannot afford to bear the cost of monitoring- the transition to an industry-funded observer program will put them out of business.

There is a need to revisit the current one-size-fits-all approach to observer coverage and develop a more efficient program that recognizes monitoring needs for different fisheries. In the process, the agency can minimize the wasteful use of observers on boats that do not catch groundfish and free up funds to support the vessels that do.

I am requesting a meeting in the near future to discuss this issue and possible solutions. It would be great to have you down to Chatham, but if it's easier, I can come to Gloucester with ELM gillnet fishermen. Please let me know your availability so we can get something on the books. I look forward to hearing from you.

Thank you,

Claire Fitz-Gerald

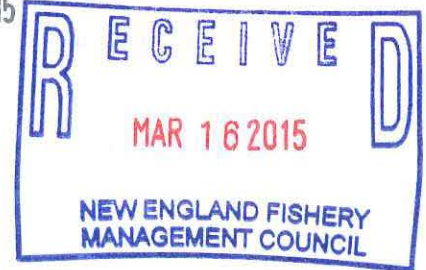
GB Cod Fixed Gear Sector Manager
Cape Cod Commercial Fishermen's Alliance
1566 Main Street, Chatham, MA 02633
(508) 945-2432 x108 -- Fax: (508) 945-0981

Jc/jp - 5/19/15



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

MAR 16 2015



Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950


RE: Comments on Framework Adjustment 53 to the Northeast Multispecies Fishery Management Plan

Dear Tom:

The Council formally submitted a draft of Framework 53 on February 20, 2015. All of the comments that we provided on the preliminary submission in our February 6, 2015, letter were addressed in the formal submission. As you may know, following formal submission of a document, NOAA's Office of Program Planning and Integration (PPI) reviews the document to ensure it is compliant with National Environmental Policy Act requirements. PPI recently completed its review, and attached are comments that need to be addressed to ensure the document is consistent with applicable law.

Our staffs have already discussed the attached comments, and have coordinated on how to best incorporate the necessary changes. If you have additional questions on the comments provided, or on the review of Framework 53, please contact Sarah Heil at (978) 281-9257. We appreciate your quick turnaround of this document, given the compressed timeline for this action.

Sincerely,

for 
John K. Bullard
Regional Administrator

Attachment



jc/jp 5/19/15

Framework Adjustment 53
Formal Submission Comments

Section	Page	Comment
General Comment	-	<ul style="list-style-type: none"> Label the preferred alternatives in the description of alternatives, environmental consequences, and executive summary sections.
1.0 Executive Summary– Summary of Environmental Consequences	5	<ul style="list-style-type: none"> Re-word the fourth sentence in the first paragraph to remove the term “most significant” as a descriptor of the impacts. We believe that there are no significant impacts to the human environment from this action that would require the development of an environmental impact statement. Stating that impacts from some measures are “more significant” than others conflicts with this determination.
	5	<ul style="list-style-type: none"> In the summary of the biological impacts, use “substantial” rather than “significant” to describe the reduction to the Gulf of Maine cod catch limit. Although a “significant reduction” may not necessarily equate to a “significant impact,” the language should be revised to not imply that this is the case.
1.0 Executive Summary–Impacts of Alternatives to the Proposed Action	7	<ul style="list-style-type: none"> Re-word the first sentence to remove the term “most significant” as a descriptor of the impacts. The rationale for this change is the same provided above.
8.2.2 National Environmental Policy Act–Finding of No Significant Impact	321	<ul style="list-style-type: none"> Remove the last paragraph of question #7. This paragraph goes beyond what is necessary to respond to this question.
	321	<ul style="list-style-type: none"> In the second paragraph of question #8, add the following sentence (in bold) to summarize the overall effects. “Under either model, overfishing is occurring and the stock is overfished. Therefore, the effects on the quality of the human environment are not likely to be highly controversial...”



Greater Atlantic Region Bulletin

NOAA Fisheries, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930

For Information Contact:
Sustainable Fisheries Division
(978) 281 - 9315

www.greateratlantic.fisheries.noaa.gov/
Date Issued: 2/27/2015

GROUND FISH FISHERMEN

Small Mesh Area 1 and 2 Exemption Areas
Exempted from GOM Cod Seasonal Interim Closure Areas
Effective Date: February 26, 2015 through May 12, 2015

We inadvertently left the Small Mesh Area 1 and 2 Exemption Areas out of the list of areas exempted from the Gulf of Maine Cod Seasonal Interim Closure Areas. We published a rule correcting this oversight. Specifically, vessels fishing a raised footrope trawl can fish in the Small Mesh Area 1 and 2 Exemption Areas with small mesh nets, when these exemption areas overlap with the Gulf of Maine Cod seasonal interim closure areas. Vessels can now fish with small mesh nets with raised footrope trawls in the Small Mesh Area 2 Exemption Area in March and April, and, if the interim rule is extended another six months beyond May 12, in the Small Mesh Area 1 Exemption Area July 15 through November 15.

Additional information on this correction can be found online at
<http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/index.html>

Additional information on the small mesh exempted fisheries can be found online at
http://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/small_mesh_exemption.pdf

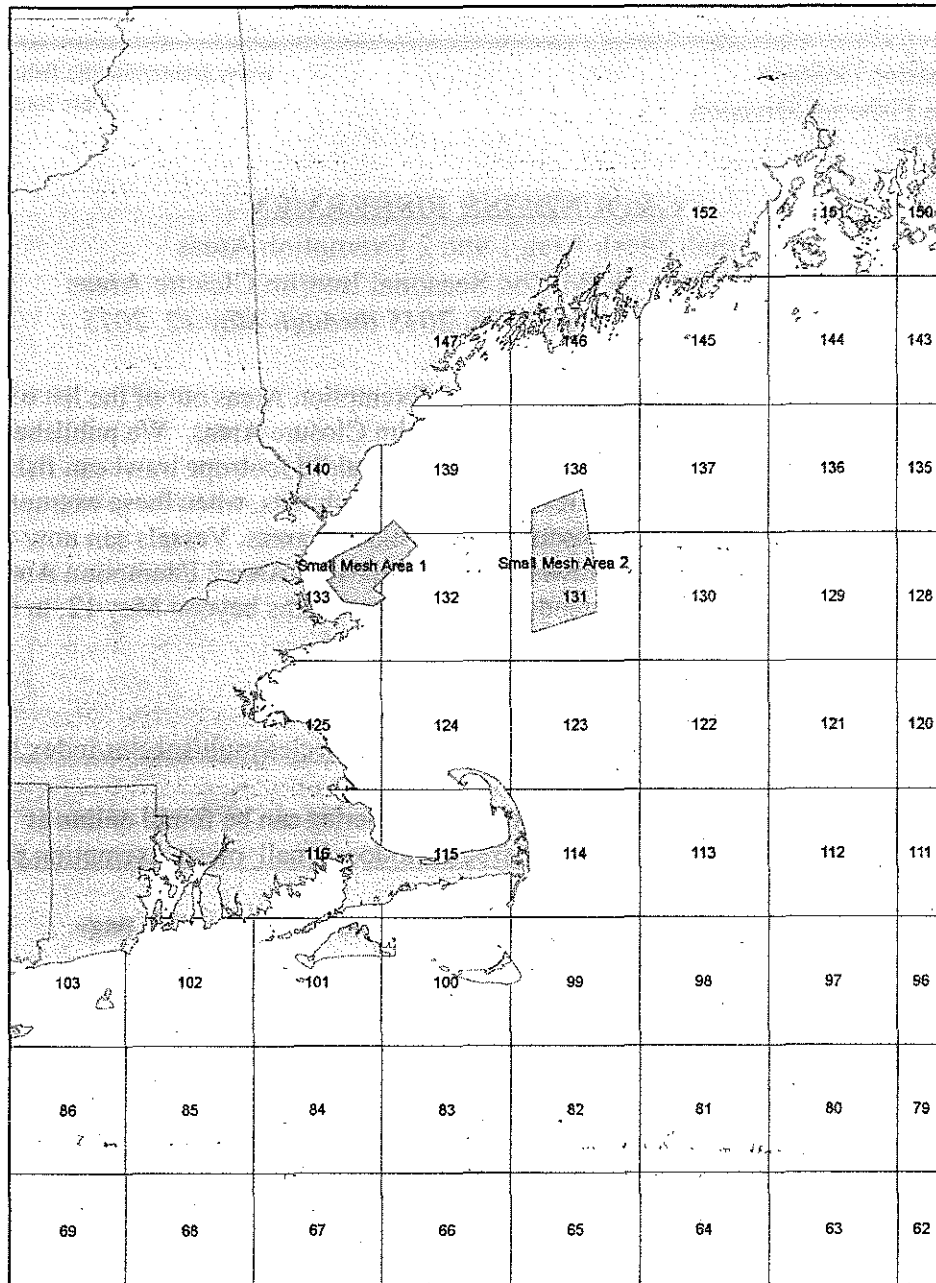
A map of Small Mesh Area 1 and 2 Exemption Areas is on the back of this page.



For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.

jc/jp - 3/3/15

Small Mesh Area I and II Exemption Areas



3



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



Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Matthew A. Beaton
Secretary

George N. Peterson, Jr.
Commissioner

Mary-Lee King
Deputy Commissioner

February 27, 2015

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

Dear John:

We offer the following comments and support for granting the Gulf of Maine cod sector exemption request even though we have some misgivings and find your proposal to grant the exemptions somewhat counterintuitive and contrary to your previous reasoning as to why the 200-pound GOM cod trip limit was appropriate.

The trip limit issue continues to strike to the heart of our collective schizophrenic attitudes towards catch limits. For example, in the interim rule you make a convincing case for a 200-pound limit: *"Without a trip limit there would be a possibility that if GOM cod occurred in any concentrations not expected, then catch reduction objectives from closed areas would be compromised."* Also, *"...Overall, even if discards of GOM cod on individual trips increase somewhat as a result of this trip limit the overall reduction of fishing mortality of this stock should be greater than if no trip limit was in place."* And, *"...Trip limits are an essential component to mitigating these uncertainties [several uncertainties about how effort may shift in response to the closed areas and what GOM cod catch rates may be in the remaining open areas] while attempting to ensure the overarching objectives for GOM cod are not compromised if effort and catches would otherwise be high in open areas."* The pièce de résistance appeared to be your concluding remark: *"...We expect trip limits to effectively dissuade targeting behavior, even with concerns about discards and monitoring. However, our message is clear: Avoid cod, if at all possible."* So, why now no limit? What has changed? At the Council meeting you and your staff admitted that you didn't know how to grant their request.

The question continues to be: Can commercial fishermen avoid cod? This question has very special significance with May 1 fast approaching and the GOM catch limit plummeting from 1,550 mt to 386 mt. There will be no ban on GOM cod possession come May 1 (FW 53 ban option rejected by Council); therefore, it will be paramount for sectors to judiciously catch

Jcl/jp - 2/27/15

whatever GOM cod has been allocated; e.g., 336,400 pounds reduced to 86,800 pounds for Sector 2 and 356,500 pounds reduced to 92,000 pounds for Sustainable Harvest Sector 1. With many fishermen claiming GOM cod have moved to more offshore ledges and environs with a wide range of cod of all sizes (ages), unless this “abundance” of cod is in areas and at times to be closed come May 1 and afterwards, commercial fishermen being able to avoid cod is a must. So, “Can commercial fishermen avoid cod.”

Apparently, fishermen will have difficulty avoiding cod as suggested in your “request for comments” in which you say “...*Removing the trip limit, as requested by the sectors, would provide a clear limit on overall catch of GOM cod and should minimize regulatory discarding (emphasis added)...*” It’s unclear to us why allowing sector fishermen to target cod (i.e., no trip limit) will “minimize regulatory discarding.” A better explanation should have been provided. Remember your own Interim Rule words: “*We expect trip limits to effectively dissuade targeting behavior, even with concerns about discards and monitoring.*”

Our concern about targeting would be greater if not for your steps to protect spawning cod (and reduce fishing mortality) through the Interim Action. Specifically, you’ve closed April (top half block 124, 125, and 132-133) and May (same, but with addition of 139-140). These are areas when and where cod have spawning activity/behavior. Your Interim Rule provides a very good and complete explanation as to why these areas/times are important. However, please consider that if FW 53 is not in place by May 1 and you extend the Interim Rule for some period of time without a trip limit, we all run the risk of having spawning aggregations subject to targeting by sectors and other fishermen. With the Interim Rule all of block 125 is open in June; therefore, those spring-spawning cod will be vulnerable.

Notwithstanding the above requests for explanation and clarification, we do support the sectors’ request for no limit. In fact, your “notice for comments” cites an almost irrefutable reason for granting their request. You state that the Interim Rule EA “*estimated that implementing the 200-lb trip limit would likely reduce GOM cod mortality by 20 mt.*” The sectors offer 30 mt of uncaught GOM cod. Seems like an offer no one can refuse even though you noted: “*Economic modeling and simulations included in the EA suggest that there is a substantial amount of uncertainty regarding the 20 mt estimated mortality reduction.*” Perhaps if the sectors’ request is granted, NMFS will be able to test the model’s assumptions and your simulations. There’s no sense using this approach in the future if data from monitoring the fishery contradicts model & simulation predictions.

Back in December the Gloucester Fishing Community Preservation Fund (within Sector 4) made an interesting argument for no limit, and in February 6 correspondence made a specific, revised request for a “conservation offset” the Service seems to have accepted in light of the tone and tenor of your request for comments. Perhaps you should directly address an important and strange part of their request in which they say: “*If deemed necessary or desirable [by whom?], the NEFS 4 Board of Directors will grant authority to the Agency to monitor, restrict, and/or enforce...*” We suggest you clarify that you *do not need* their permission. Sector fishermen have been granted privileges (PSCs & subsequent ACEs) that can be revoked by the Council and NMFS without their “permission” and despite their objections (after a public process).

Regarding the other part of the sectors’ request (i.e., if declared into the GOM, then no fishing on that trip on Georges Bank or elsewhere), we agree with your emphasis on accurate catch-location reporting and monitoring. As you suggest, requiring daily vessel monitoring

system (VMS) catch reports when vessels fishing outside the GOM on the same trip should “help ensure that catch is properly accounted for.” We support the sectors’ request.

However, because you emphasize your action will reduce regulatory discarding (i.e., no 200-pound limit), we must ask you to explain how you reached this conclusion when in the Interim Rule you stated: *“Approximately 25% of sector trips are subject to at-sea monitoring or observation. The remaining 75% of GOM sector trips are not monitored at sea. Very few fishermen report discards on their Vessel Trip Reports (our emphasis)...”* We appreciate why many fishermen don’t accurately report cod discards (or any discards) because self-reporting of discards reduces their sector’s ACE thereby putting the entire sector at risk to a complete closure for the balance of the fishing year. Therefore, with sectors voluntarily reducing their ACE s (not using 30 mt) this fishing year, can it be argued that less ACE likely will increase discards especially if fishermen are correct about the GOM cod assessment seriously underestimating cod abundance and availability to fishermen?

We do have one objection. We do not support your intent to grant “minor sector exemption modifications without further notice...” What constitutes “minor” is not adequately explained.

In the sectors’ request it states: *“Each of these sectors contributed materially to this effort to reduce the available 2014 GOM cod ACE through the methods described...The undersigned sectors continue to support all three of these modifications [remove March closures included] that would have resulted in a total of 60 metric tons in conservation offset through ACE use restrictions within NEFS 4.”* The sectors cite 60 mt as an offset, but offer 30 mt as a minimum, and NMFS appears to have agreed with the 30 mt. Considering the “substantial uncertainty” in the economic model/simulations and most fishermen not reporting discards on their VTRs, why hasn’t NMFS considered the actual sector offset of 60 mt? Your decision needs further explanation along with details about how much each sector has contributed to the voluntary “hold back.”

We ask for one more clarification regarding our last point (details). The sectors’ request includes the Sustainable Harvest Sector 1 as a signatory. We assume the SHS1 has contributed to the 30 mt and moved that tonnage in an inter-sector way. How much was transferred? As an example, if one sector “holds back” 5 mt and another sector offers 20 mt, should both sectors get the exemption?

Finally, we note a curiosity and wonder if this exemption is precedent setting and/or contrary to earlier concerns/stance expressed by sectors themselves. During Amendment 18 debate (over a few years) serious concern was expressed about very conservation-minded organizations or groups buying permits and acquiring MRIs with the intent to put the allocations “on the shelf,” not to use them.

Some in the industry said this approach would work against attaining optimum yield by denying the industry allowable catch. Now we find sectors proposing to do the same, but for different and understandable reasons, i.e., no trip limit and no BSA restriction. What does this portend for the future and how we handle ACEs? Are ACEs to be used as future bargaining chips and under what circumstances? NMFS should give this some serious thought, as should the Council.

We appreciate your willingness to reconsider your Interim Rule action. You’ve shown flexibility and open-mindedness. As noted above, we support your actions (one exception). We

only ask for some clarifications and additional information so misunderstandings don't occur, and we can better appreciate the implications of your granting the sectors' request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Pierce". The signature is fluid and cursive, with a large initial "D" and "P".

David Pierce, Ph.D.
Deputy Director

cc

Michael Petony

Michael Ruccio

William Whitmore

Paul Diodati

George N. Peterson, Jr.

Mary-Lee King

Melanie Griffin

Terry Stockwell

Thomas Nies

Vito Giacalone

Jackie Odell

PS – Pop dy gets chastised for single species model, bt we hear that the law will not allow us to
yus multispecies management? Will we have flexibility in the law to address these types of thing
(Rick)?

RM – didn't see any legal impediments. Might be challenging to adapt the structures we have
built over the last decades. But we need to get better at adapting to regime shifts and that
probably will be incremental. Have to get better at forecasting but at a minimum we have to be
prepared to be adaptable, that will raise the questions of looking at multiple Fs reates but that
doesn't mean it can't work.

Cadrin – are proxies like F40% still valid because they are not based on changes in life histories,

John Hare

- Lobster and Silver Hake – increase in north; decrease in south
- Atlantic Menhaden – increase in north
- Yellowtail Flounder – increase in north, decrease in south
- Southern species in northern areas – Black Sea Bass, Great White Sharks

From 1957

There was an increase in temp by about 2 degrees. There is a multi-decadal temperature Atlantic.
The paper was written in 1957 just as the temp was cooling. In 1990s, Muraswki looked at
changes in distribution for changes in temp. 12 / 36 species changes, Species respond differently
and there are seasonal changes.

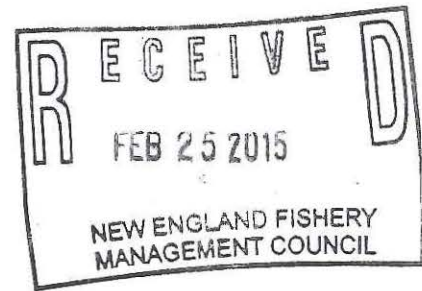
Janet Nye found 24 / 36 species distributions changed, most northward. A lot of in
Trend related to the AMO,
JH believes we need to focus on climate

Cod preying on herring and sand lance has resulted in a shift in the distribution of cod. N cod
ollapse aprtly related to changing environment.

Dynamic downscaling is regionally specific
An alt is si

3

February 21, 2015



John K Bullard, Regional Administrator
NMFS, NE Regional Office
55 Great Republic Drive
Gloucester, MA 01930

Dear Mr. Bullard:

I am writing to oppose the proposed sector exemption that would allow trading 30 metric ton of uncaught Gulf of Maine Cod for the removal of the 200 lb trip limit and the ability to fish both Gulf of Maine and Georges Bank on the same trip.

1. This, I feel, is very discriminatory to the inshore fleet since it would not allow fishing in blocks 132, 133 and the northern half of 124 during the month of March, and these blocks are where the inshore fleet makes its living at this time of the year. For years the inshore fleet has suffered with the rolling closures and continue to do so even though recent surveys show GOM cod further offshore.

Cod are no longer truncated in the near shore western Gulf of Maine but the inshore fleet continues to pay with these closures.

The month of February 2015 the weather has been so severe that inshore boats have been unable to fish. The few days the wind has not been blowing a gale NH boats and many others were frozen to moorings and docks by as much as a foot of ice. Effectively, inshore boats got shut down from Nov 13, 2014 through May 1, 2015 and the offshore fleet goes back to business as usual.

2. As far as I am concerned a cod is a cod and a haddock is a haddock, no matter where it is caught.

At the recent January 2015 council meeting in Portsmouth NH I stated on record that I opposed the emergency interim action for many reasons. However the one single good thing to come out of it was accurate accounting of where cod and haddock are caught.

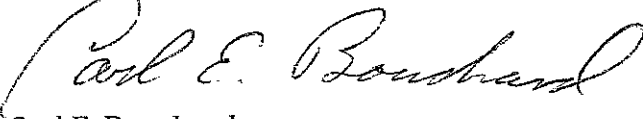
Tagging studies and DNA analysis have proven large cod migration patterns from Gulf of Maine to Great South Channel and southern New England, Cox Ledge etc. Therefore, as long as these stocks are allocated the way they are and until stock boundaries are addressed or removed this is the only way to account accurately. Fishermen know where and when they catch fish, a 6-hour tow across a boundary line and writing something on a VTR, even with an observer on board, is not accurate reporting.

jc/lip -2/25/15

3. This is not an option but mine would have been to remove the cod trip limit, restore fishing in March, blocks 132,133 and 124 in exchange for the 30 metric ton of cod. Leave the broad stock areas separated because that is the only way we can match reporting to the allocation system we have in place. This would benefit inshore boats, offshore boats and the fish by reducing discards. Something for all, even the fish.

So, again I say No to this exemption.

Thank you

A handwritten signature in cursive script that reads "Carl E. Bouchard".

Carl E. Bouchard
PO Box 219
Exeter, NH 03833

F/V Stormy Weather
F/V Stormy Weather I
F/V Monihoni
F/V Little Storm

CC: NEFMC



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

February 25, 2015

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

Dear John:

In accordance with provisions of the Magnuson-Stevens Act, I have reviewed the draft regulatory text for Framework Adjustment 53 to the Northeast Multispecies FMP in order to deem whether it is consistent with the framework text and the Council's intent. The review is based on the draft regulatory text provided to the Council on February 3, 2015, further modified through discussions between our staffs. I have concluded that the agreed upon revised draft regulatory text implementing Framework 53 measures is consistent with the Council intent. I am not commenting on the regulation corrections that were provided in the same correspondence.

Please feel free to call me with any concerns.

Sincerely,

Terry Stockwell
Chairman

Enclosure (1)

Framework 53 Proposed Regulations

1. In § 648.2, revise the definition for “Gillnet gear capable of catching multispecies” to read as follows:

§ 648.2 Definitions.

* * * * *

Gillnet gear capable of catching multispecies means all gillnet gear except pelagic gillnet gear specified at § 648.81(f)(5)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for or catch tunas, swordfish, and sharks.

2. In § 648.14, revise paragraphs (k)(6)(i)(E), (k)(7)(i)(A) and (B), and (k)(16)(iii)(A) and (B) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(6) * * *

(i) * * *

(E) Use, set, haul back, fish with, possess on board a vessel, unless stowed and not available for immediate use as defined in § 648.2, or fail to remove, sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), in the areas and for the times specified in § 648.80(g)(6)(i) and (ii), except as provided in § 648.80(g)(6)(i) and (ii), and § 648.81(f)(5)(ii), or unless otherwise authorized in writing by the Regional Administrator.

* * * * *

(7) * * *

(i) * * *

(A) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(d)(1), (e)(1), (f)(4), and (g)(1), except as provided in § 648.81(d)(2), (e)(2), (f)(5), (g)(2), and (i).

(B) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (f) and (n), unless otherwise specified in § 648.81(c)(2)(iii), (f)(5)(i), (f)(5)(iv), (f)(5)(viii) and (ix), (i), (n)(2)(i), or as authorized under § 648.85.

* * * * *

(16) * * *:

(iii) * * *

(A) Fail to comply with the applicable restrictions if transiting the GOM Regulated Mesh Area with cod on board that was caught outside the GOM Regulated Mesh Area.

(B) Fail to comply with the requirements specified in § 648.81(f)(5)(v) when fishing in the areas described in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified.

* * * * *

3. In § 648.80, revise paragraphs (g)(6)(i) and (ii) to read as follows:

§ 648.80 NE multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(g) * * *

(6) * * *

(i) *Requirements for gillnet gear capable of catching NE multispecies to reduce harbor porpoise takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet

gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), must comply with the applicable provisions of the Harbor Porpoise Take Reduction Plan found in §229.33 of this title.

(ii) *Requirements for gillnet gear capable of catching NE multispecies to prevent large whale takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(5)(ii)), must comply with the applicable provisions of the Atlantic Large Whale Take Reduction Plan found in §229.32 of this title.

* * * * *

4. In § 648.81, revise paragraphs (d)(2), (e)(2), (f), (g)(2)(i), and (i) to read as follows:

§ 648.81 NE multispecies closed areas and measures to protect EFH.

* * * * *

(d) * * *

(2) Unless otherwise restricted under the EFH Closure(s) specified in paragraph (h) of this section, paragraph (d)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (f)(5)(ii) through (v) of this section.

* * * * *

(e) * * *

(2) Unless otherwise restricted under paragraph (h) of this section, paragraph (e)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraphs (f)(5)(ii) through (v) of this section consistent with the requirements specified under § 648.80(a)(5).

* * * * *

(f) *GOM Cod Protection Closures.* (1) Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish in, or be in; and no fishing gear capable of catching NE multispecies may be in, or on board a vessel in GOM Cod Protection Closures I through V as described, and during the times specified, in paragraphs (4)(i) through (v) of this section.

(2) Any vessel subject to a GOM Cod Protection Closure may transit the area provided it complies with the requirements specified in paragraph (i) of this section.

(3) The New England Fishery Management Council shall review the GOM Cod Protection Closures Areas specified in this section when the spawning stock biomass for GOM cod reaches the minimum biomass threshold specified for the stock (50 percent of SSB_{MSY}).

(4) *GOM Cod Protection Closure Areas.* Charts depicting these areas are available from the Regional Administrator upon request.

(i) *GOM Cod Protection Closure I.* From May 1 through May 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure I, which is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE I

[May 1-May 31]

Point	N. latitude	W. longitude
CPCI 1	43°30'N	(¹)
CPCI 2	43°30'N	69°30'W
CPCI 3	43°00'N	69°30'W
CPCI 4	43°00'N	70°00'W
CPCI 5	42°30'N	70°00'W
CPCI 6	42°30'N	70°30'W

CPCI 7	42°20'N	70°30'W
CPCI 8	42°20'N	⁽²⁾ ⁽³⁾
CPCI 1	43°30'N	⁽¹⁾ ⁽³⁾

¹ The intersection of 43°30'N latitude and the coastline of Maine

² The intersection of 42°20'N latitude and the coastline of Massachusetts

³ From Point 8 back to Point 1 following the coastline of the United States

(ii) *GOM Cod Protection Closure II*. From June 1 through June 30, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure II, which is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE II

[June 1-June 30]

Point	N. latitude	W. longitude
CPCII 1	⁽¹⁾	69°30'W
CPCII 2	43°30'N	69°30'W
CPCII 3	43°30'N	70°00'W
CPCII 4	42°30'N	70°00'W
CPCII 5	42°30'N	70°30'W
CPCII 6	42°20'N	70°30'W
CPCII 7	42°20'N	⁽²⁾ ⁽³⁾
CPCII 8	42°30'N	⁽⁴⁾ ⁽³⁾
CPCII 9	42°30'N	70°30'W
CPCII 10	43°00'N	70°30'W
CPCII 11	43°00'N	⁽⁵⁾ ⁽⁶⁾
CPCII 1	⁽¹⁾	69°30'W ⁽⁶⁾

¹ The intersection of 69°30'W longitude and the coastline of Maine

² The intersection of 42°20'N latitude and the coastline of Massachusetts

³ From Point 7 to Point 8 following the coastline of Massachusetts

⁴ The intersection of 42°30'N latitude and the coastline of Massachusetts

⁵ The intersection of 43°00'N latitude and the coastline of New Hampshire

⁶ From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine

(iii) *GOM Cod Protection Closure III*. From November 1 through January 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure III, which is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE III

[November 1-January 31]

Point	N. latitude	W. longitude
CPCIII 1	42°30'N	(¹)
CPCIII 2	42°30'N	70°30'W
CPCIII 3	42°15'N	70°30'W
CPCIII 4	42°15'N	70°24'W
CPCIII 5	42°00'N	70°24'W
CPCIII 6	42°00'N	(²) (³)
CPCIII 1	42°30'N	(¹) (³)

(¹) The intersection of 42°30'N latitude and the Massachusetts coastline

(²) The intersection of 42°00'N latitude and the mainland Massachusetts coastline at Kingston, MA

(³) From Point 6 back to Point 1 following the coastline of Massachusetts

(iv) *GOM Cod Protection Closure IV*. From October 1 through October 31, the restrictions specified in paragraphs (f)(1) and (2) of this section apply to GOM Cod Protection Closure IV, which is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE IV

[October 1-October 31]

Point	N. latitude	W. longitude
CPCIV 1	42°30'N	(¹)
CPCIV 2	42°30'N	70°00'W
CPCIV 3	42°00'N	70°00'W
CPCIV 4	42°00'N	(²) (³)
CPCIV 1	42°30'N	(¹) (³)

- (¹) The intersection of 42°30'N latitude and the Massachusetts coastline
- (²) The intersection of 42°00'N latitude and the mainland Massachusetts coastline at Kingston, MA
- (³) From Point 4 back to Point 1 following the coastline of Massachusetts

(v) *GOM Cod Protection Closure V*. From March 1 through March 31, the restrictions specified in paragraphs (f)(1) and (2) of this section GOM Cod Protection Closure V, which is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE V

[March 1- March 31]

Point	N. latitude	W. longitude
CPCV 1	42°30'N	70°00'W
CPCV 2	42°30'N	68°30'W
CPCV 3	42°00'N	68°30'W
CPCV 4	42°00'N	70°00'W
CPCV 1	42°30'N	70°00'W

(5) The GOM Cod Protection Closures specified in this section do not apply to persons aboard fishing vessels or fishing vessels that meet any of the following criteria:

- (i) That have not been issued a multispecies permit and that are fishing exclusively in state waters;
- (ii) That are fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:
 - (A) The net is attached to the boat and fished in the upper two-thirds of the water column;
 - (B) The net is marked with the owner's name and vessel identification number;
 - (C) There is no retention of regulated species; and

(D) There is no other gear on board capable of catching NE multispecies;

(iii) That are fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iv) That are fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);(v) That are fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) For vessels fishing under charter/party regulations in a GOM Cod Protection Closure described under paragraph (f)(4) of this section, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater; for vessels fishing under charter/party regulations in the Cashes Ledge Closure Area or Western GOM Area Closure, as described under paragraph (d) and (e) of this section, respectively, it has on board a letter of authorization issued by the Regional Administrator, which is valid from the date of enrollment until the end of the fishing year;

(B) Fish species managed by the NEFMC or MAFMC that are harvested or possessed by the vessel, are not sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) The vessel has no gear other than rod and reel or handline on board; and

(D) The vessel does not use any NE multispecies DAS during the entire period for which the letter of authorization is valid;

(vi) That are fishing with or using scallop dredge gear when fishing under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in §

648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip; or

(vii) That are fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), or in the the Small Mesh Area II Exemption Area, as specified in § 648.80(a)(9);

(viii) That are fishing on a sector trip, as defined in this part, and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(vi) and (v) of this section; or

(ix) That are fishing under the provisions of a Northeast multispecies Handgear A permit, as specified at § 648.82(b)(6), and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(vi) and (v) of this section .

(g) * * *

(2) Paragraph (g)(1) of this section does not apply to persons on fishing vessels or to fishing vessels that meet any of the following criteria:

(i) That meet the criteria in paragraphs (f)(5)(i), (ii), (iii) or (iv) of this section;

* * * * *

(i) *Transiting*. Unless otherwise restricted or specified in this paragraph (i), a vessel may transit CA I, the Nantucket Lightship Closed Area, the Cashes Ledge Closed Area, the Western GOM Closure Area, the GOM Cod Protection Closures, the GB Seasonal Closure Area, the EFH Closure Areas, and the GOM Cod Spawning Protection Area, as defined in paragraphs (a)(1), (c)(1), (d)(1), (e)(1), (f)(4), (g)(1), (h)(1), and (n)(1), of this section, respectively, provided that its gear is stowed and not available for immediate use as defined in § 648.2. A vessel may transit CA II, as defined in paragraph (b)(1) of this section, in accordance with paragraph (b)(2)(iv) of this section. Private recreational or charter/party vessels fishing under the Northeast multispecies

provisions specified at § 648.89 may transit the GOM Cod Spawning Protection Area, as defined in paragraph (n)(1) of this section, provided all bait and hooks are removed from fishing rods, and any regulated species on board have been caught outside the GOM Cod Spawning Protection Area and has been gutted and stored.

* * * * *

5. In § 648.87, revise paragraphs (b)(1)(i)(C), (b)(1)(iii)(C), (c)(2)(i), and (c)(2)(ii)(B) to read as follows:

§ 648.87 Sector allocation.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) *Carryover.* (1) With the exception of GB yellowtail flounder, a sector may carryover an amount of ACE equal to 10 percent of its original ACE for each stock that is unused at the end of one fishing year into the following fishing year, provided that the total unused sector ACE plus the overall ACL for the following fishing year does not exceed the ABC for the fishing year in which the carryover may be harvested. If this total exceeds the ABC, NMFS shall adjust the maximum amount of unused ACE that a sector may carryover (down from 10 percent) to an amount equal to ~~or less than~~ the ABC of the following fishing year. Any adjustments made would be applied to each sector based on its total unused ACE and proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in (b)(1)(i)(E) of this section.

(i) *Eastern GB Stocks Carryover.* Any unused ACE allocated for Eastern GB stocks in accordance with paragraph (b)(1)(i)(B) of this section shall contribute to the carryover allowance for each stock, as specified in this paragraph ((b)(1)(i)(C)(I)), but shall not increase individual sector's allocation of Eastern GB stocks during the following year.

(ii) This carryover ACE remains effective during the subsequent fishing year even if vessels that contributed to the sector allocation during the previous fishing year are no longer participating in the same sector for the subsequent fishing year.

(2) *Carryover accounting.* (i) If the overall ACL for a particular stock is exceeded, the allowed carryover of a particular stock harvested by a sector, minus the NMFS-specified *de minimis* amount, shall be counted against the sector's ACE for purposes of determining an overage subject to the AM in paragraph (b)(1)(iii) of this section.

(ii) *De Minimis Carryover Amount.* The *de minimis* carryover amount is one percent of the overall sector sub-ACL for the fishing year in which the carryover would be harvested. NMFS may change this *de minimis* carryover amount for any fishing year through notice consistent with the Administrative Procedure Act. The overall *de minimis* carryover amount would be applied to each sector proportional to the cumulative PSCs of vessels/permits participating in the sector for the particular fishing year, as described in (b)(1)(i)(E) of this section.

* * * * *

(iii) * * *

(C) *ACE buffer.* At the beginning of each fishing year, NMFS shall withhold 20 percent of a sector's ACE for each stock for a period of up to 61 days (i.e., through June 30), unless otherwise specified by NMFS, to allow time to process any ACE transfers submitted at the end

of the fishing year pursuant to paragraph (b)(1)(viii) of this section and to determine whether the ACE allocated to any sector needs to be reduced, or any overage penalties need to be applied to individual permits/vessels in the current fishing year to accommodate an ACE overage by that sector during the previous fishing year, as specified in paragraph (b)(1)(iii) of this section. NMFS shall not withhold 20 percent of a sector's ACE at the beginning of a fishing year in which default specifications are in effect, as specified in § 648.90(a)(3).

* * * * *

(c) * * *

(2) * * *

(i) *Regulations that may not be exempted for sector participants.* The Regional Administrator may not exempt participants in a sector from the following Federal fishing regulations: Specific time and areas within the NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; AMs specified in § 648.90(a)(5)(i)(D). For the purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified in § 648.82; the SAP-specific reporting requirements specified in § 648.85; and the reporting requirements associated with a dockside monitoring program are not considered reporting requirements, and the Regional Administrator may exempt sector participants from these requirements as part of the approval of yearly operations plans. For the purpose of this paragraph (c)(2)(i), the Regional Administrator may not grant sector participants exemptions from the NE multispecies year-round closures areas defined as Essential Fish Habitat Closure Areas as defined in § 648.81(h); the Fippennies Ledge Area as defined in paragraph (c)(2)(i)(A) of this section; Closed Area I and Closed Area II, as defined in § 648.81(a) and (b), respectively,

during the period February 16 through April 30; and the Western GOM Closure Area, as defined at § 648.81(e), where it overlaps with GOM Cod Protection Closures I through III, as defined in § 648.81(f)(4). This list may be modified through a framework adjustment, as specified in § 648.90.

* * * * *

(ii) * * *

(B) The GOM Cod Protection Closures IV and V specified in § 648.81(f)(4)(iv) and (v) and the GB Seasonal Closed Area specified in § 648.81(g)(1);

* * * * *

6. In § 648.89:

a. Remove paragraph (c)(2)(v); and

b. Revise paragraphs (c)(1), (e)(1), and (f)(1) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(c) * * *

(1) *Recreational fishing vessels.* (i) Each person on a private recreational vessel may possess no more than 10 cod per day in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in § 648.80(a)(1).

(ii) When fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1), persons aboard private recreational fishing vessels may not fish for or possess any cod with the exception that private recreational vessels in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod harvested by recreational fishing vessels in or from the EEZ with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod must be stored so as to be readily available for inspection.

* * * * *

(2) * * *

(i) Persons aboard charter/party fishing vessels permitted under this part and not fishing under the NE multispecies DAS program or on a sector trip that are fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1) may not fish for, possess, or land any cod with the exception that charter/party vessels in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

* * * * *

(e) * * *

(1) *GOM Closed Areas.* (i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(d)(1), (e)(1), and (f)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(f)(5)(v) and paragraph (e)(3) of this section.

The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the GOM Cod Protection Closures; or for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(n)(1) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(n)(2)(iii).

* * * * *

(f) * * *

(1) *Catch evaluation.* As soon as recreational catch data are available for the entire previous fishing year, the Regional Administrator will evaluate whether recreational catches exceed any of the sub-ACLs specified for the recreational fishery pursuant to § 648.90(a)(4). When evaluating recreational catch, the components of recreational catch that are used shall be the same as those used in the most recent assessment for that particular stock. To determine if any sub-ACL specified for the recreational fishery was exceeded, the Regional Administrator shall compare the 3-year average of recreational catch to the 3-year average of the recreational sub-ACL for each stock.

(2) *Reactive AM adjustment.* (i) If it is determined that any recreational sub-ACL was exceeded, as specified in paragraph (f)(1) of this section, the Regional Administrator, after consultation with the New England Fishery Management Council, shall develop measures necessary to prevent the recreational fishery from exceeding the appropriate sub-ACL in future years. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the

Administrative Procedure Act, with final measures published in the **Federal Register** no later than January when possible. Separate AMs shall be developed for the private and charter/party components of the recreational fishery.

(ii) The Regional Administrator shall not adjust the possession limit for GOM cod, under the reactive AM authority specified in paragraph (f)(2)(i) of this section, as long as possession of this stock is prohibited for the recreational fishery, as specified in paragraph (c) of this section.

(3) *Proactive AM adjustment.* (i) When necessary, the Regional Administrator, after consultation with the New England Fishery Management Council, may adjust recreational measures to ensure the recreational fishery achieves, but does not exceed any recreational fishery sub-ACL in a future fishing year. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** prior to the start of the fishing year where possible. In specifying these AMs, the Regional Administrator shall take into account the non-binding prioritization of possible measures recommended by the Council: for cod, first increases to minimum fish sizes, then adjustments to seasons, followed by changes to bag limits; and for haddock, first increases to minimum size limits, then changes to bag limits, and then adjustments to seasons.

(ii) The Regional Administrator shall not adjust the possession limit for GOM cod, under the proactive AM authority specified in paragraph (f)(3)(i) of this section, as long as possession of this stock is prohibited for the recreational fishery, as specified in paragraph (c) of this section.

* * * * *

7. In § 648.90, revise paragraphs (a)(2)(i) and (viii), (a)(3), and (a)(5)(i) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(3) *Default OFLs, ABCs, and ACLs.* (i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the **Federal Register** for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 35 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on July 31, unless superseded by the final rule implementing the current year's specifications.

(ii) If the default specifications exceed the Council's recommendations for any stock for the current year, the specifications for that stock shall be reduced to the Council's recommendation through notice consistent with the Administrative Procedures Act.

(iii) These specifications shall be subdivided among the various sub-components of the fishery consistent with the ABC/ACL distribution adopted for the previous year's specifications.

* * * * *

Mr. Terry Stockwell, Chair
New England Fishery Management Council



Dear Terry:

I write in support of the Groundfish Committee recommendations for preferred alternatives for Amendment 18 – in short, no action.

As you know, I am an owner-operator of a small boat, and I have fished commercially for groundfish for 30 years. While advocates of amendment 18 may have had good intentions, amendment 18 contains nothing that would improve the chances that I will continue to have a viable business. The Council would have been better off focusing on more important issues, or even better off doing nothing at all.

I hope the Council will quickly move on to addressing the real needs of the groundfish industry, like stable ACLs and deal with the at sea monitoring cost that will eventually cripple what is left of the industry.

Sincerely

Michael A. Russo
F/V Gulf Venture
Cape Cod