

Correspondence



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New England Fishery Management Council

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

July 26, 2013

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

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

Dear John:

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

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

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

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

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

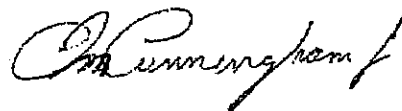
Even assuming that 100 percent coverage can be justified, the Agency’s rationale for requiring that it be funded by the industry is not convincing. The Atlantic herring FMP allows herring mid-water trawl vessels to fish in the groundfish closed areas only when an observer, funded by the National Marine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

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Cunningham", with a stylized flourish at the end.

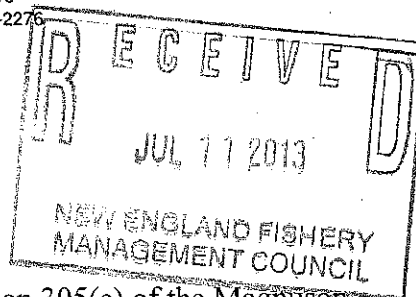
C.M. “Rip” Cunningham
Chairman

cc: William Whitmore, NERO



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

JUL - 9 2013



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

Dear Captain Goethel:

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

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

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

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

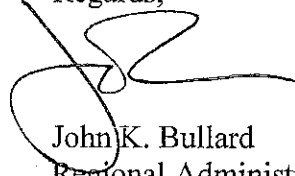


cc: Council, FH, JC, RF (7/12)

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

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

Regards,

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

John K. Bullard
Regional Administrator

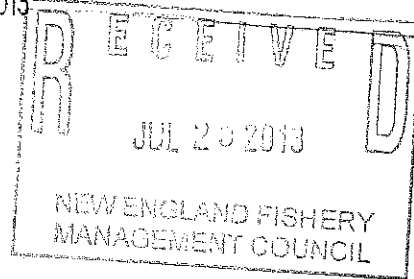
Cc: Mr. Thomas Nies, Executive Director, New England Fishery Management Council
Mr. Terry Stockwell, Chair, Council's Groundfish Committee
Dr. Bill Karp, Director, Northeast Fisheries Science Center

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

JUL 22 2013



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

Dear Tom:

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

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

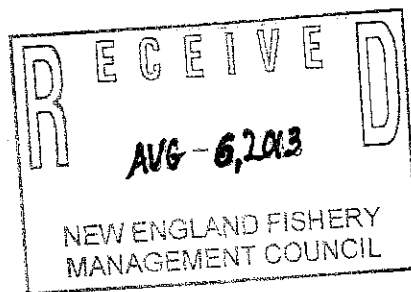
Sincerely,

for John K. Bullard
Regional Administrator

cc: Council, CBR, LG, JE, FH (7/26)



91 FAIRVIEW AVE
PORSTMOUTH NH 03801

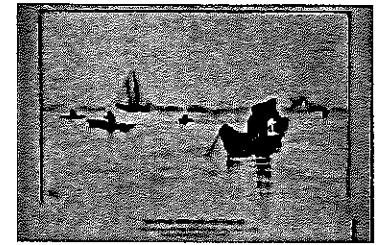


**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

August 4, 2013

New England Fishery Management Council

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



Dear Groundfish Committee:

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

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

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

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

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

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

Respectfully,
Marc Stettner /s/

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

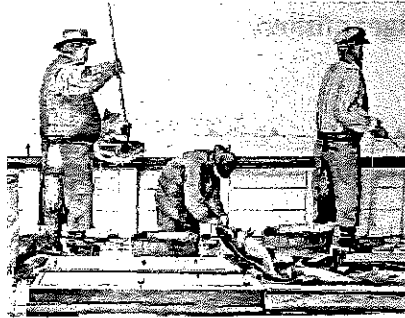
If you are a holder of a groundfish HA permit and wish to join the NEHFA, please contact the NEHFA at the address above.

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RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

NORTHEAST HOOK FISHERMEN'S ASSOCIATION

AMENDMENT 18



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

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

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

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

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

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RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures.

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures continued.

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 1 Summary of proposal with management measures continued.

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 2 STATUS OF THE HANDGEAR FISHERY

Current Commercial Cod Handgear Fishery:

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

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

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

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

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

Current Participation (2008/2009) data:

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

Amendment 16 Data & Information:

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

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 3 WHY CHANGE?

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

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

Discussion: Currently the majority of the cod allocated to the common pool is the history of the handgear fishery. All gears can fish on this history which in turn leads to a race to fish where other gear types can harvest the cod Sub ACL before handgear have had the chance to catch their historical percentage of the fishery. It is fair to allocate this small percentage to the Handgear fishery as what was done for the recreational fleet and for other commercial fisheries. Once this allocation is made, management measures can be developed to eliminate the race to fish and to reestablish of this traditional fishery in New England. ~~The stairstep provision would be a means to expand the fishery as more fishermen are fishing with handgear as it hopefully becomes popular again~~

- #2 Specify handgear cod Sub ACL history can only be used by fishermen using handgear.**

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

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

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

RESTORING THE NEW ENGLAND GROUNDFISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

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

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

~~List rules:~~

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

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

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

#6 Removal of March 1-20 Handgear fishing closure

Discussion: No longer needed with a specific cod Sub ACL. Catch of other species is not significant enough to warrant this closure.

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

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

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

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

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

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

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

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

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

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

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

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

#13 Automatic triggers to not exceed Handgear Sub ACL.

Discussion: The following automatic trigger will be applied to make sure the cod Sub ACL (per BSA) will not be exceeded. NEFMC shall choose between choices a & b below. The choice shall be made with input from the PDT and the Handgear fishermen.

- a. Cod trip limit initially set at 300 lbs. When 85% of the Handgear ACL is harvested, the trip limit will be reduced to 200 lbs. When 95% of the Handgear ACL is harvested the trip limit will be reduced to 100 lbs.
- b. Cod trip limit initially set at 300 lbs. When 90% of the Handgear ACL is harvested, the NMFS will reduce the trip limit (in increments of 100lbs but no less than 100lbs) to spread the cod fishery out over the remainder of the fishing year.

#14 IVR call in not required unless 85% of the cod Handgear SUB ACL harvested. Call in modified to streamline want is needed for this fishery.

Discussion: Catch rates in this fishery are slow enough to loosen this reporting requirement. Repetitive information is unnecessarily gathered such as (phone number, BSA, gear used, ect). **Only end of trip IVR call in with permit number and VTR # is needed when 85% of the cod Sub ACL is reached.** The dealer reports the catch within 24 hrs. via the dealer reporting. The current call in & out system is too complex for this simple fishery.

#15 Fish size limits per existing commercial regulations.

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 4 Specifics of proposal and discussion.

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

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

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

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

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

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

~~#19 VTRs for reporting catch.~~

~~Discussion: No change from existing regulations.~~

~~#20 Changes to handgear input controls~~

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

Section 5 Why current HA fishermen should support this.

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

Section 6 Why Fishery Managers should support this.

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

RESTORING THE NEW ENGLAND GROUND FISH HANDGEAR FISHERY PROPOSAL

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

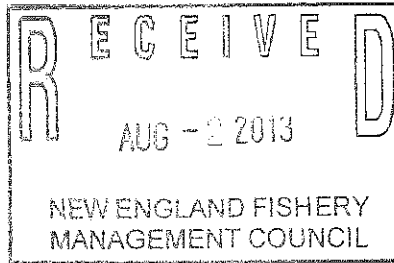
Section 7 — SAMPLE HA PERMIT WAITING LIST

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

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

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

July 31, 2013
NOAA Fisheries Service
Northeast Regional Office
Regional Administrator
55 Great Republic Drive
Gloucester, Massachusetts, 01930-2276
Phone: (978) 281-9300
Fax: (978) 281-9333



**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**



Dear John Bullard:

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

We are extremely disappointed with the Management of the Common Pool fishery. Recently the GOM fishery was closed for the first Trimester due to what is perceived to be an overharvest of Haddock. **Numerous times we have requested that the NEFMC and the NMFS eliminate the Trimester quotas (for all groundfish) in the Common Pool and manage the quotas on a yearly basis.** The quotas are so small (for some fish) in the Common Pool that there is basically nothing left to fish for and with the Trimesters nothing is divided by three. To put this into perspective the Common Pool GOM haddock sub ACL is only 3,750 lbs. for the whole year. For the first Trimester it is only 1,100 lbs. The entire common pool fishery shuts down if 90% of any stock is going to be harvested so in reality the quota is only 990 lbs. to be shared by every groundfish boat in the common pool for the first Trimester. No wonder the entire common pool for the GOM was shut down mid-July until September 1st.

So where is all the Haddock quota? The GOM haddock Sector ACE is 407,851 lbs. When compared to the Common Pool the common pool GOM haddock yearly quota is 0.9% of what is in sectors. The total Haddock ACL for GOM and GB combined is 66,440,030 lbs (**66 million pounds!**).

From Wikipedia "**De minimis** is a Latin expression meaning about minimal things or *de minimis non curat lex* (*"The law does not concern itself with trifles"*). Queen Christina of Sweden (r.1633-1654) favored the similar Latin adage, *aquila non capit muscas* (*the eagle does not catch flies*)."

Is the NMFS trying to catch flies shutting down the common pool to all ground fishing because the Common Pool caught 990 lbs. haddock? Does this action do anything significant to restore a perceived problem with GOM haddock aside from hurting the smallest commercial fishermen? We don't believe the Magnuson Act was intended to shutdown fishermen over "trifles".

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

Fish have tales and use them. We find it hard to believe the current breakup of the haddock stocks (GOM, GB West & GB East) is based on sound science. Perhaps the haddock stock should be just that, one stock until such a time where the science dictates that there is some barrier to prevent a haddock from swimming from east to west (Georges Bank) or north into the GOM. Funds should be allocated to the scientists in order to come up with accurate stock boundaries if they exist.

We are asking you to use whatever regulator authority you have in order to reopen the common pool fishery immediately. We can't lose another summer and August is one of our primary months to fish when the weather is good since our boats are some of the smallest in the commercial fleet.

We are also asking the NEFMC & the NMFS to include a provision in Framework 51 to get rid of the Trimesters forever. This can be very quickly done in the Groundfish Framework to restore the Common Pool to how it was managed prior to the onset of the Trimesters.

We are very pleased that the Council will consider adding the NEHFA plan we submitted for Amendment 18. In light of what happened with haddock, perhaps the Handgear fishery needs a minuscule quota of haddock of their own along with some other species to restore this fishery and prevent further shutdowns.

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

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

Respectfully,

Marc Stettner /s/

CC: NEFMC Council Members

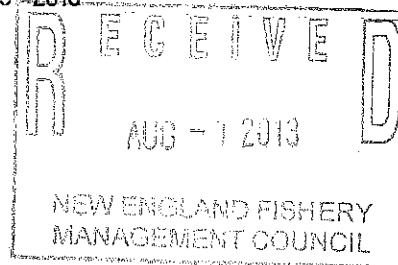
NEHFA MEMBERS: Marc Stettner, Hilary Dombrowski, Paul Hoffman, Christopher DiPilato, Ed Snell, Scott Rice, Roger Bryson, Brian McDevitt, Anthony Gross, Doug Amorello

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



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

JUL 29 2013



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

Dear Rip:

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

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

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

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

Sincerely,

John K. Bullard
Regional Administrator

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

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



