



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

John F. Quinn, Ph.D., Chairman
New England Fishery Management Council
50 Water Street Mill 2
Newburyport, MA 01950

MAR 28 2018

Dear John:

As you know, in November 2017, we withdrew approval of the Northeast Fishery Sector IX operations plan. Since then, we have been working with the Sector 9 Board of Directors to develop a path forward and resolve issues that caused the withdrawal of approval. This week, we received a letter from Sector 7 related to these issues. Attached are several documents that Sector 7 and Sector 9 submitted to us, which we summarize below. We will brief the Council on our work with Sector 9 and these submissions at its April meeting.

To address past overages and ensure they are operating with available annual catch entitlements (ACE), on February 22, 2018, Sector 9 submitted a draft operations plan to function as a lease-only sector. The plan would allow the sector only to lease allocation with other approved sectors. Sector 9 vessels would not be able to fish for groundfish under this plan. This lease-only plan would allow us to accurately account for Sector 9's past ACE overages while providing Sector 9 the opportunity to reduce overages with available ACE as allowed by the regulations. Prior to the submission of this plan, we informed the Sector of the normal sector approval process, which typically includes a proposed and final rulemaking and opportunity for public comment. This rulemaking would include details about the misreported catch that resulted in sector overages, and any resulting payback. Accounting for overages and ensuring the sector is leasing or fishing with available ACE is a prerequisite to approving any new operations plan.

As part of our work with Sector 9, we are also considering what monitoring provisions, independent accounting or board oversight requirements, restrictions on landing or first point of sale, penalty provision changes, or other changes may be needed to ensure the sector's operations do not undermine the sector system. The Board submitted a proposal on January 16, 2018, seeking to address monitoring and operational issues that undermine the sector system. The Board provided a proposed method to apportion the misreported catch by stock area and pay back any resulting overages; a summary of penalties that Sector 9 levied against Carlos Rafael; and a summary of proposed changes for a future active operations plan, including trip hail and vessel trip report requirements for vessel captains.



Every year, we set a deadline for all sectors to submit preliminary sector rosters for the upcoming fishing year. Vessels can join a sector up through that date; after the deadline, vessels can opt to drop out of the sector and join the common pool, but cannot switch sectors. On the March 26 deadline for submitting 2018 rosters, we received a letter from Sector 7 detailing the following changes:

- Four vessels from Sector 7 are joining the common pool;
- Sixteen vessels from Sector 7 are joining Sector 8;
- No vessels from Sector 7 are remaining in Sector 7;
- One vessel from Sector 8 is joining Sector 7; and
- Fifty-five vessels from Sector 9 are joining Sector 7, including four vessels subject to forfeitures as a result of the criminal case against Carlos Rafael.


A separate letter from Sector 9, also sent on March 26, indicates that three vessels from Sector 9 will remain in that sector, and two vessels will join Sector 8. The letter also included information stating that the three remaining vessels in Sector 9 meet the regulatory requirement to have at least three multispecies permits issued to at least three different persons, none of whom have any common ownership interests with the others, also known as the Rule of Three. We are working on confirming that Sector 9 meets this requirement.

The letter from Sector 7 includes a condition requiring all Sector 7 vessels owned by Carlos Rafael to be inactive in the groundfish fishery unless and until they are sold to an independent party. While inactive, these vessels would have the ability to conduct inter- and intra-sector quota transfers. The letter from Sector 7 asked that we not issue Sector Letters of Authorization to those vessels owned by Mr. Rafael. Vessels previously enrolled in Sector 9 that are moving to Sector 7, but are not owned by Mr. Rafael, are listed as inactive, but are not subject to the Sector 7-imposed requirement to change ownership before becoming active.

The March 26 letter from Sector 7 requested an addendum to the Sector 7 operations plan, to reflect the conditions for certain members to become active, as well as to change the Board of Directors for Sector 7. The new Sector 7 Board is made up of three individuals that also sit on the Board for Sector 9. The Sector 7 proposed amendments do not appear to include the monitoring or operational changes proposed by Sector 9.

At the April meeting, we will consider any input and recommendations from the Council on these submissions as we work to finalize fishing year 2018 sector allocations and work with Sector 9 to address the outstanding overages and disapproval issues. If you have any questions regarding the attached documents, please contact Sarah Heil, Groundfish Team Supervisor, at (978) 281-9257.

Sincerely,



Michael Pentony
Regional Administrator

cc: Dr. Jamie Cournane, NEFMC Groundfish Plan Coordinator

Enclosures