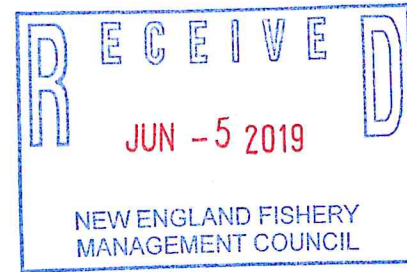


ADDITIONAL
CORRESPONDENCE

June 5, 2019

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



VIA ELECTRONIC MAIL

Dr. Quinn,

Please accept the following comments with respect to the draft alternatives under consideration for Amendment 23 to the Northeast Multispecies FMP.

4.1.1.1 Sector Reporting Requirements

Having been a groundfish sector manager since sector program began in FY 2010, I can say for certain sector reporting does require a significant of time on a weekly basis and any streamlining of the reporting requirements should be a welcome to all sector managers. With that being said, any attempt by NMFS to modify sector reporting MUST be an inclusive process with the sectors and their managers. Keep in mind that a sector manager's reporting responsibility is not only to NMFS but also to its individual members in order to provide them with updated balances of their own individual harvest share. Only a collaborative approach to modifying sector report requirements will result in any meaningful benefit to both sectors and NMFS.

As to the draft document text for this alternative, I would like to express my concern over what I perceive is a lack of understanding of the sector reporting process outlined in the document. It is correct to say that NMFS does provide sector managers various data sets to complete their sector reports but many times I have a more complete data set than what is being provided to me. In most cases, my members provide me copies of VTRs and dealer weigh out slips before NMFS has the same data. Also the data provided from NMFS is prone to errors. On average, I have been reporting on approximately 1,100 – 1,200 sector trips per year between the two sectors that I currently manage. I normally find data errors on 25 – 30% of these trips in the NMFS provided data. The most significant errors (~ 80%) tend to be improperly reported VTR numbers due to key punch errors. The second most common error I find is dealer combined trips where two distinct trips are combined into one dealer landing report. In both cases, these errors lead to double counting of catch by NMFS. I do report these errors and they do get fixed but this process may take up to a month before the corrections are entered.

As to the reconciliation process between NMFS and sectors, it does not occur on the regular basis as reported in the draft options. Sectors are provided the first reconciliation comparison reports from NMFS usually four months into the fishing year (end of August or beginning of September). These reports are generally sent on a weekly basis after this point but not always. Over the years there have been gaps of a week or two where we have not received these reports.

To illustrate the concern in gaps in reconciliation reports further, I would like to point out that there have been two federal government shut downs since the sector program was initiated. During these shut downs, there was no reconciliation information being provided to any sectors while there still was fishing effort occurring.

Again, I would like to state that I support Option 2: Streamline Sector Reporting Requirements as long as the new reporting requirements are developed in a collaborative approach between NMFS and the industry, that there is an understanding that both NMFS' and industry's data streams will have a certain level of errors and that the reconciliation process will occur as there is input from both sides.

4.2.1.1 Dockside Monitoring Program

My members and I are extremely concerned about the proposed 100% mandatory dockside monitoring program and DO NOT in any way support it. We do not understand where there is a need or purpose for this monitoring program nor can we find any analysis that addresses the need for this type and level of monitoring,. This DSM program lacks any significant details and sounds like a reattempt at the failed DSM program from FY 2010 & FY 2011. That program was poorly designed with little to no benefit to anyone. The only difference that I see is having dealers being responsible for the cost of the program. Unfortunately, the fishing vessels will still be paying for this program through increased handling fees being charged to cover the dealers' extra costs related to DSM. Even if there will be reimbursement monies available, there will be administrative costs incurred by the dealers that will most likely not be covered under the reimbursement process and these costs will be directly forced onto the vessels. These additional fees will just further lower the gross income of groundfish trips and result in a less profitable fishery.

In addition, having DSM monitoring of 100% of all groundfish trips, including those trips will also have observer/ASM coverage, appears overly prescriptive and a waste of monitoring money. This is especially true when you consider that the potential of total at-sea coverage of groundfish trips will most likely rise as a result of the other alternatives in the draft document.

4.2.3 Exemptions from Groundfish Sector and Common Pool Monitoring Program Requirements

I can say for sure that the groundfish industry appreciates the option for exemptions from Amendment 23 monitoring program requirements if implemented. Option 2: Exemption for Certain Vessels Based on Fishing Location is one example of a reasonable option to justify exemptions from monitoring requirements and my sectors members and I support Option 2.

However, as a sector manager, I see many "groundfish" sector trips that have little to no interactions with any regulated groundfish stocks to the east of both Sub-Option 2 A (72° 30' W) and Sub-Option 2B (71° 30' W). Specifically:

- Gillnet trips targeting spiny dogfish in the GOM during July & August

- Gillnet trips targeting monkfish and skates using extra-large mesh.
- Trawl trips targeting monkfish and/or fluke in the offshore regions of SNE
- Trawl trips targeting bait skates in SNE
- Trawl trips targeting scallops

Interactions with groundfish on these sector trips are usually 5% or less of total catch which is also the determining criteria for creating an exempted fishery. Currently, some of these trips can occur in exempted fisheries, however; all groundfish caught must be discarded at sea. Monitoring these types of groundfish trips at the full levels proposed in the draft options document would be just a serious waste of monitoring effort and money.

Based on this, we would like to see an additional option that allows for Exemptions for Certain Vessels Based on Overall Catch Composition. This exemption option would allow sectors to request exemptions from DSM and/or ASM based on catch composition. Any exemption requests submitted by a sector and considered by NMFS must be supported by historical catch data that has 5% or less groundfish associated with it. This exemption could be geographic or seasonal in nature if necessary and appropriate.

In addition to the above comments, I am wondering if there will be any further analyses performed by the PDT with regard to the studies presented at the two day joint groundfish meeting in May. As a member of the public audience, I heard some legitimate concerns raised by committee and advisory panel members with respect to these studies. Specifically,

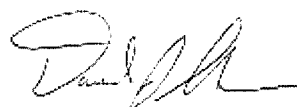
- **Evaluating the Observer Effect for the Northeast U.S. Groundfish Fishery:** This study would have been better suited to analyze day boats and trip boats using different lengths in time between trip occurrences. The study used a time period of 45 days to ensure seasonal effects were not interpreted as behavioral effects. This time period is appropriate for trip vessels but definitely not for day trips. A shorter time period of 7 – 14 days would be much more fitting for the day boat fleet.
- **Comparison of Sector Vessel Landings Effort Ratios between Observed and Unobserved trips by Gear and Broad Stock Area:** This study combined various gear types employed by the groundfish industry into two very broad categories, trawl & gillnet. For the trawl analysis, this means catch from bottom otter trawls (OTF), haddock separator trawls (OTH) and Ruhle trawls (OTR) were combined together without regard to the individual and distinct selective properties of each trawl gear type. In addition, the trawl data did not factor in codend mesh size or shape both of which also have very distinct selective properties on catch. For the gillnet analysis, both large mesh (6" - < 8") gillnet and extra-large mesh (8" or greater) gillnet data were combined. These two gillnet mesh categories also have very distinct selective properties with respect to catch and are employed to target total different species. This study would have more meaningful results if the data was analyzed at a more refined level taking into account at a minimum the three separate trawl types and the two separate gillnet categories.

- **Predicting Gulf of Maine (GOM) cod catch on Northeast Multispecies (groundfish) sector trips: implications for observer bias and fishery catch accounting:** This study also did not account for the selective properties for various codend mesh sizes and shapes used on trawl gear or the different gillnet mesh categories used by the groundfish industry in the GOM. This study would have more meaningful results if the data was analyzed in a manner to account for the different selective properties of the gears using in the GOM by the groundfish industry.

I would have liked to have provided feedback on these analyses as a sector manager at the meeting, but there was no opportunity provided for public comment during the two day meeting.

Overall, I along with members of both my sectors feel that the Amendment 23 process is being rushed along with no regard for its long term implications or with any concern for the groundfish industry's needs. It would appear that the goal of some council members is to just get something done and move on. We agree sector need a monitoring program that can accurately account for all landings and discards. However, this monitoring cannot be at the expense of the long term existence of the groundfish fish industry. We understand that there is federal monies being appropriated to cover these significant monitoring levels, but this money is only short term in nature and will not last long.

Thank you for your time and consideration of these comments.



Daniel Salerno, Sector Manager
V Northeast Fishery Sector Inc.
XI Northeast Fishery Sector Inc.

cc: Christopher Brown, President, V Northeast Fishery Sector
James Hayward, President, XI Northeast Fishery Sector

June 5, 2019

Mr. John Quinn, Chair
New England Fishery Management Council



VIA ELECTRONIC MAIL

We the undersigned are commercial fishermen that depend upon the groundfish fishery for our livelihoods.

The purpose and need of Amendment 23 clearly identifies “maximizing the value of collected catch data and minimizing costs for the fishing industry and the National Marine Fisheries Service” as critical parts of this action.

So far in the Amendment 23 process, we have not seen an attempt to relate the additional costs of monitoring to any measurable benefit to our businesses or the fishery for any of the alternatives. This is a critical and unique aspect of this Amendment because monitoring in the groundfish sector program is industry funded.

The cost of monitoring is a direct cost to our businesses - it is a direct cost to crew, which is hard enough to find and retain these days. How do we justify this additional expense? What do we get for it? With the lack of any cost / benefit information, how do we justify the reduced paychecks to our crew?

We hear theories that increased monitoring will improve stock assessments. But we have learned from Amendment 16 that higher levels of monitoring do not necessarily result in improved stock assessments. Certainly we have not seen any improved ability to estimate stock size.

While critical stock quotas are so low, federal funds made temporarily available to monitor our fishery are essential to our survival. These funds should not be wasted on increased monitoring in the short-term with no quantifiable benefit. ***Federal funds can NOT be considered to offset the costs of Amendment 23 alternatives.***

At this point in the process we hear there is a focus on finishing rather than on developing informed and sound alternatives. As businesses that will be directly impacted by this action, we are more concerned that the Council focuses its effort on getting the alternatives right than simply completing the action.

Please consider the seriousness of your actions and the fragile economic condition of the few remaining vessels trying to keep this industry afloat. There are hardly any of us left. The Council needs to focus on alternatives that are mindful of the realities of this fishery.

Respectfully submitted on behalf of the following sector vessels:

F/V	Aaron & Alexa	Scott Swicker	F/V	Manford L Porter	Craig Porter
F/V	Alanna Renee	Kurtis Lang	F/V	Maria G S	Joseph Sanfilippo
F/V	Amanda & Andy II	Jim Santapaola	F/V	Maria JoAnn	Frank Patania
F/V	Amanda & Andy III	Jim Santapaola	F/V	Marion J	Tom Lyons
F/V	Amanda Leigh	Jim Santapaola	F/V	Mary Elizabeth	Phil Lynch
F/V	America	Tory Bramante	F/V	Michael Brandon	Thomas Bell
F/V	American Pride	Tory Bramante	F/V	Midnight Sun	Thomas Testaverde
F/V	Angela & Rose	Paul Vitale	F/V	Miss Emily	Kevin Norton
F/V	Ann Marie	Fanel Dobre	F/V	Miss Meredith	Matt Cooney
F/V	Atlantic Prince	Mike Walsh	F/V	Miss Sandy	Vincenzo Taorminia
F/V	Bantry Bay	Daniel Murphy	F/V	Miss Trish II	Vincenzo Russo
F/V	Boomer Two	Mike Walsh	F/V	My Grace	Frank Sciortino
F/V	Capt Joe	Giuseppe Dimaio	F/V	Mystique Lady	Joseph Jurek
F/V	Capt Novello	Sam Novello	F/V	Olympia	Mike Walsh
F/V	Captain Dominic	Accursio Sanfilippo	F/V	Orion	Giuseppe Dimaio
F/V	Carol Ann	Mark Carnevale	F/V	Padre Pio	Tory Bramante
F/V	Cat Eyes	Ignazio Sanfilippo	F/V	Paula Lynn	Phil Lynch
F/V	Catherine M	Lance Edwards	F/V	Pilgrim	William McCann
F/V	Cheryl Ann	Ron Gustafson	F/V	Princess Laura	Giuseppe Dimaio
F/V	Debra Ann II	Debra Metivier	F/V	Razzo	Joe Randazzo
F/V	Determination	Donald Fox	F/V	Rebecca Anne	Peter Fadden
F/V	Dunlin	Michael Frontiero	F/V	Rimrack	Mike Anderson
F/V	Early Times	Daniel Connors	F/V	Ruthie B	William Blount
F/V	Ellen Diane	David Goethel	F/V	Ryan Zachary	Richard Burgess
F/V	Endeavor	Kevin Shea	F/V	SS Melon II	Mark Byard
F/V	Explorer IV	Bonnie Akerley	F/V	Sabrina Maria	Albert Cottone
F/V	Flight 1	Mike Walsh	F/V	Sammy Jo	Frank Patania
F/V	Foxy Lady	Phil Powell	F/V	Sandy Lynn	Neil Pike
F/V	Grace Marie	Stefanie Noto	F/V	Santo Pio	Joseph Orlando
F/V	Guardian	Mike Walsh	F/V	Seafarmer II	Clark Sandler
F/V	Hannah Story	Scott Eshenfelder	F/V	Shamrock	William McCann
F/V	Harvest Moon	Mark Carroll	F/V	Sharon E	Scott Eshenfelder
F/V	Heidi & Elisabeth	James Hayward	F/V	Stephanie & Bryan	Donald Fox
F/V	Hope Lynn	Neil Pike	F/V	Tina & Tom	Busty Brancaleone
F/V	Hustler	Tom Vinegra	F/V	Tina & Tom II	Busty Brancaleone
F/V	Iberia II	Pedro Pelicas	F/V	Toby Ann	Brian Higgins
F/V	Janel Leigh	Frank Davis	F/V	Tremont	Mike Walsh
F/V	Kathryn Leigh	BG Brown	F/V	Tyler	Giuseppe Dimaio
F/V	Kenneth J Duncan	Craig Porter	F/V	United States	Antonia Cravo
F/V	Labor In Vain	Doug Germain	F/V	Windsong	Mike Bauhs
F/V	Lady J	David Jewell	F/V	Witchcraft	Jayson Driscoll
F/V	Lady Jane	Russell Sherman			
F/V	Lady Victoria	Charles Felch, Jr.			
F/V	Lori B	Richard Burgess			
F/V	Luso American I	Carlos Alberto			



June 6, 2019

Dr. John Quinn, Chairman
Mr. Tom Nies, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear Dr. Quinn and Mr. Nies:

On behalf of Environmental Defense Fund (EDF)'s millions of members and supporters, we write again to support the New England Council's work on Amendment 23 to reform monitoring in the groundfish fishery and to urge steady progress forward on this critically important amendment without additional delay. By continuing with timely action on Amendment 23, the Council can take a crucial step towards full recovery of the groundfish fishery and associated benefits to coastal communities. However, we have witnessed ongoing efforts to bog down or obstruct progress, even at the recent joint meetings between the PDT, Groundfish Committee, and Groundfish Advisory Panel that took place two weeks ago. It is time to move forward and not allow further obstruction or obfuscation of the issues that have already been clearly identified for analysis as part of the NEPA process.

As discussed at the May 2019 joint committee meeting, a sub-panel of the Scientific and Statistical Committee reached some crucial conclusions in the Peer Review Report analyzing a number of studies of groundfish monitoring. This Report reviewed four studies performed to determine potential effects on harvest and discards from at-sea observers present on fishing trips relative to unobserved trips. Overall, the Peer Review Report confirms that current monitoring is failing to produce reliable data on which to base management, including avoiding overfishing and ensuring accountability with annual catch limits. More specific conclusions are discussed below.

1. The observer effect exists in the groundfish fishery.

The Peer Review Report states that "the analyses, taken comprehensively, create a weight of evidence that disproves the null hypothesis, namely that there is no effect from the presence of an observer on a fishing trip. In other words, **the work taken collectively show that there is an observer effect**, and therefore managers need to account for this when basing management off information derived from observed trips."¹ Although there is room for

¹ New England Fishery Management Council, Scientific and Statistical Committee Sub-Panel, Peer Review Report for the Groundfish Plan Development Team Analyses of Groundfish Monitoring, conducted April

improvement in the studies and additional analyses, the Peer Review Panel agrees that “together the set of studies provide substantial support to conclude that **there are differences both in discarding behavior and in fishing behavior between observed and unobserved trips.**”²

2. The status quo (use of the CV method) is inadequate.

Monitoring levels are currently determined using the CV method, which relies on the assumption that the observer effect does not exist. Given the peer review now confirming the existence of the observer effect, the best available science documents that status quo is inadequate to accurately estimate discards at sea. The use of the CV method has already been called into question,³⁴ and the Peer Review Report further states that the confirmation of the observer effect “suggests **it is not appropriate to determine a level of observer coverage that should be deployed by considering the coefficient of variation of discard estimates from observer coverage** since observed trips are not representative of unobserved trips.”⁵ As such, prompt action is necessary to establish monitoring levels that will produce accurate catch levels and achieve the objectives and requirements of the Groundfish FMP and the Magnuson-Stevens Act.

3. Monitoring and enforcement must increase, perhaps with increased penalties for deterrence, to offset buffers needed to account for management uncertainty.

The Peer Review Report suggests potential courses of action the Council may need to take to correct for the observer effect identified in the current groundfish monitoring program. One option is “to estimate discards on unobserved trips and use this to determine an appropriate buffer between the ABC and ACL to account for management uncertainty” created by the observer effect. However, as may be the case here, “if discards are a large proportion of the ACL,” “the increased buffer would have to be large and would aggravate the illegal discard problem, which could make estimating discards for unobserved trips more difficult and uncertain.” Thus a buffer increase alone will not suffice to address management uncertainty, and suggests “a need for increased monitoring and enforcement or increased penalties to deter illegal discarding.”⁶

Finally, NEPA requires that the Council move forward for analysis a robust range of alternatives that promote full accountability in the fishery, including monitoring of 100 percent of fishing trips (whether by human observers or electronic monitoring) and dockside monitoring, is

24-25, 2019 in Providence, RI. at p. 3 (emphasis added). Available at https://s3.amazonaws.com/nefmc.org/3b_190513_SSC_Sub_Panel_Peer-Review-Report_OEMethods_FINAL.pdf.

² Id. at p. 18 (emphasis added).

³ See, eg., EDF comments to New England Council, April 2019.

⁴ Letter from Michael Pentony to Tom Nies, dated Mar. 28, 2019 (“we encourage the Council to consider the applicability of this method for stocks approaching an overfished condition and recent performance”), available at page 10-11 at https://s3.amazonaws.com/nefmc.org/7.-Correspondence_190409_135140.pdf.

⁵ Peer Review Report at p. 18 (emphasis added).

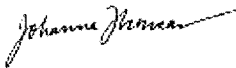
⁶ Id. at p. 19.

considered throughout the Amendment process. Accurate catch and discard data collected at sea and on the shore are essential to preventing overfishing and accountability to annual catch levels, especially in the face of climate impacts on fish populations.⁷

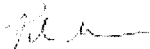
The alternatives document refers in several places to cost concerns about higher monitoring levels. This region has benefitted from significant appropriations designed to alleviate the financial impact of monitoring requirements on the fishing industry. Moreover, moving from human observers to more cost-effective electronic options would reduce the cost of higher monitoring levels. Overall, the combination of available appropriations and less expensive options combine to reduce any financial impact of raising monitoring levels to the point where the agency obtains the accurate catch data necessary to manage the fishery consistent with the FMP and the MSA.

Thank you for considering our comments and continuing to move forward this crucial Amendment.

Very truly yours,



Johanna Thomas
Director, New England Region
Oceans Program



Priya Sundareshan
Attorney, Oceans Program

*Future correspondence can include Monica Goldberg, Chief Counsel, Oceans Program

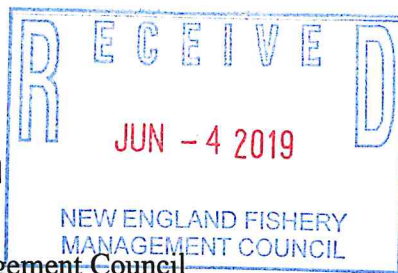
⁷ The Peer Review Report has concluded similarly that “unaccounted mortality from the fishery is one of several contributors to issues in our understanding of groundfish populations. Resolving to better understand this potential bias will be a step forward in improving our understanding of groundfish populations and will contribute to improved accounting of fishery mortality in our management process.” Id. at p. 19.

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

June 4, 2019

New England Fishery Management Council

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 Executive Director Tom Nies & Council Chairman Dr. John Quinn

Subject: Framework Adjustment 59 Common Pool Measures to ensure the TACs/ACLs are not exceeded

We represent a 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.

We are requesting that the NEFMC consider in FW 59 changing the measures to ensure common pool TACs/ACLs are not exceeded in order to better fit the status of the current fishery.

Problem Statement: Amendment 16 states *“In any trimester, when it is projected that ninety percent of the TAC/ACL for a stock will be caught, NMFS will close the area where the stock is caught to all groundfish fishing using gear capable of catching that species (see below for an exception to this requirement). Gear used to catch other species will still be allowed to fish in the area.”* The quotas for some species in the common pool such as GOM cod and some flatfish are triggering closures of the common pool to all groundfish fishing using gear capable of catching that species. This is most likely due to an issue with discards when targeting other species in combination with low trip limits for these species. The requirement for the NMFS to close a fishery to all gear capable of catching the stock is too restrictive and should be relaxed in order to allow fishing for stocks that are healthy by other gear types. Amendment 16 also states *“The area closed will be based on the area that accounted for ninety percent of the reported (VTR) landings in prior years. Areas that will be closed for each stock are shown in Table 29. These areas are based on statistical areas where ninety percent of the catch was taken in recent years. The Regional Administrator is authorized to expand or narrow the areas closed based on additional information.”* This requirement is also too restrictive and closes vast swaths of fishing grounds where more targeted closures is appropriate.

Proposed solutions (independent of each measure or combined):

1. Change the requirement to state *“In any trimester, when it is projected that ninety percent of the TAC/ACL for a stock will be caught, NMFS will close the area where the stock is caught to all groundfish fishing by gear capable of catching a substantial quantity of the particular stock. Gear that catches a de minimis quantity of the particular stock will still be allowed to fish but the trip limit for that stock will be reduced to zero. Gear used to catch other species will still be allowed to fish in the area.”*

“Substantial” is defined as gear that has caught more than 50% of the particular stock (retained plus discards) within the trimester subject to closure. “De minimis” is defined as gear that has caught less than 25% of the particular stock (retained plus discards) within the trimester subject to closure.

Reason for change requested:

This will allow other gear codes that are able to avoid catching a significant quantity the particular stock to continue fishing for healthy species. It is acknowledged that the other gear codes may catch small quantities the particular species of concern. However, with a zero trip limit there would be no incentive to target these species and it would be unlikely that the overall common pool quota for the year would be exceeded. Closing fishing grounds to all gear capable of catching a particular stock is too restrictive.

JC 6/5/16

2. Change the fishing ground that are closed when 90% of a particular stock is reached to state. *“The area closed will be the particular Statistical Area(s) where a substantial quantity of the particular stock was caught (retained plus discards) as reported by (VTR) landings in the trimester. The Regional Administrator is authorized to expand or narrow the areas closed based on additional information.”*

“Substantial” is defined as gear that has caught more than 50% of the particular stock (retained plus discards) within the trimester subject to closure.

Reason for change requested: This will allow fishing to continue in areas where the particular species is not concentrated. The current closures are too broad and are not based on seasonal concentrations of species on specific fishing grounds. The current practice of closing vast swaths of fishing ground to all gear capable of catching a particular stock is too restrictive when more targeted closures is appropriate to allow fishing on healthy stocks.

We believe that these proposed changes for FW 59 will make small changes to the current fishery regulations that will benefit not only handgear fishermen but all fishermen in the common pool. This will also allow additional fishing effort on healthy stocks without compromising the rebuilding of fish stocks that are depressed. Please consider adding this as a measure for FW 59. This change will also have the added benefit of helping to reduce our dependence on foreign caught marine finfish while providing a far superior locally caught fresh product to consumers.

Very 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