

ADDITIONAL  
CORRESPONDENCE



91 FAIRVIEW AVE  
PORSTMOUTH NH 03801

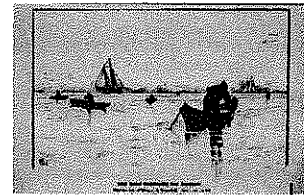
**NORTHEAST HOOK  
FISHERMAN'S ASSOCIATION**

March 22, 2015

New England Fishery Management Council

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

Thomas A. Nies, *Executive Director*



Dear Tom Nies & Terry Alexander:

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 18<sup>th</sup> 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.*

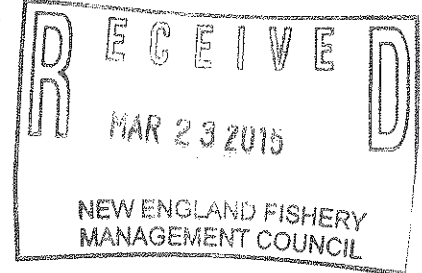




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930-2276

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

MAR 19 2015



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

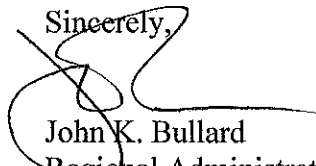
Dear Jim:

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.

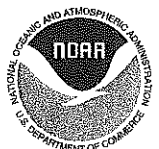
I'm sorry that you feel as though you keep "getting screwed left and right", but I'm bound to the criteria established as part of the state consensus agreement. However, if you can provide dealer reports to supplement the landing information in our dealer database, please contact Anthony Conigliari at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







Paul J. Diodati  
Director

# Commonwealth of Massachusetts

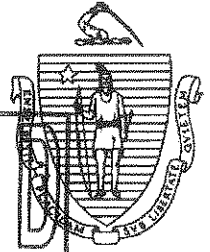
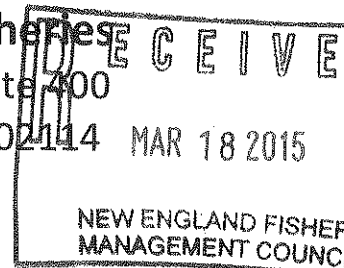
## Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114 MAR 18 2015

(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