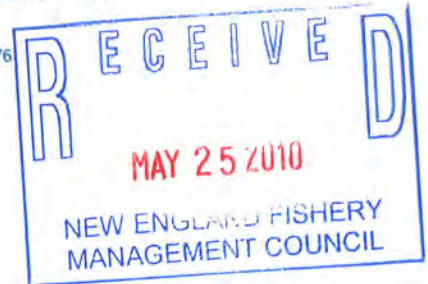


Correspondence



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

MAY 25 2010



Hank Soule, Manager
Sustainable Harvest Sector
PO Box 356
South Berwick, ME 03908

Dear Hank:

I am writing in response to your letter dated May 14, 2010, regarding your opposition to restrictions on annual catch entitlement (ACE) trading between sectors with members who are not fully compliant with Vessel Trip Report (VTR) reporting requirements. When reviewing an ACE transfer request, § 648.87(b)(i)(viii)(B) of the regulations implementing Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan specifies that approval be based on sector and sector vessels' compliance with sector reporting requirements, which includes compliance with weekly VTR reports.

Although we acknowledge that the regulation is not clear, we've determined that the provision you reference was intended to apply to VTR compliance for trips when a vessel is called into the NE multispecies DAS program or a non-DAS sector trip. For example, if a vessel was declared out of the groundfish fishery and fished for squid for the entire reporting week, an ACE inter-sector transfer application would be allowed to go forward, regardless of whether the vessel was VTR-compliant for that week. Conversely, a sector that has a member vessel that made a groundfish trip and subsequently did not submit a weekly VTR will not be permitted to trade ACE with another sector until the sector's vessels are in compliance with VTR reporting. We believe this interpretation of § 648.87(b)(i)(viii)(B) is consistent with the Council's intent and allows us to accurately monitor sector ACE and sector vessels. We will clarify this interpretation of the regulations through an action in the near future. Therefore, we will not consider VTR compliance for weekly dedicated non-groundfish trips for the purposes of processing ACE transfers. However, please note, the weekly reporting requirement will remain in place for all NE multispecies vessels.



cc: Council, TN (6/1)

If you have additional questions, please contact my staff at (978) 281-9315.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia A. Kurkul', written in a cursive style.

Patricia A. Kurkul
Regional Administrator

cc: John Pappalardo, NEFMC

SUSTAINABLE HARVEST SECTOR

PO Box 356, So. Berwick ME 03908 | 207-956-8497 | shsector@gmail.com

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May 14 2010

Patricia Kurkul
Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930



Dear Pat,

We write in opposition of the NMFS' policy of restricting inter-sector ACE trading for sectors whose membership is not fully compliant with FVTR reporting requirements.

Under Amendment 16, multispecies permit holders are required to submit FVTRs weekly, as opposed to monthly. Permits enrolled in groundfish sectors are required to comply with weekly reporting, even if the permit holder is not engaged in the multispecies fishery (e.g., leases the permit's groundfish quota to another sector member).

We agree with the NMFS' overall goal of increasing reporting frequency (and in fact encourage implementation of eVTR in the groundfishery for the 2011 fishing year). However, compliance with even the existing monthly FVTR reporting deadline is poor, and consistent with past practice, the NMFS should provide outreach to non-compliant permit holders, and some amount of time for them to adapt.

We do not believe it was the intent of the NMFS or the NEFMC to restrict ACE trading between sectors in general, and especially not for this reason so early into the new management regime. Under this restrictive interpretation, one non-compliant permit holder with just a few hundred pounds of ACE could stop millions of pounds of potential ACE trades for dozens of fishermen.

The NEFMC limited sector members' joint liability to discards of legal sized fish, ACE overages, and misreporting. We do not believe that 'misreporting' was intended to include laxity of reporting.

It is reasonable to place restrictions on an individual permit for reporting non-compliance (again, after some time has been granted to rectify the issue). And it is reasonable to require a sector to abide by those restrictions. However, particularly at this time where we are working to make implementation sectors as successful as possible, we do not believe the NMFS should impose regulations that needlessly restrict liquidity of ACE.

Therefore we strongly request the NMFS not restrict inter-sector ACE trading because of late FVTR filings.

Sincerely,

Hank Soule

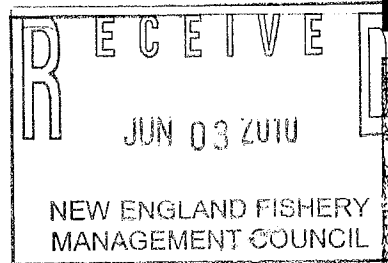
cc: John Pappalardo, NEFMC

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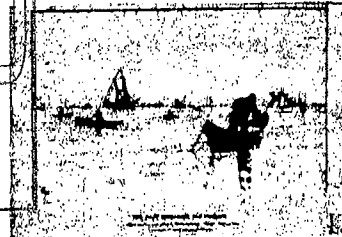
91 FAIRVIEW AVE
 PORSTMOUTH NH 03801

May 23, 2010

Kurkul, Patricia A
 Regional Administrator
 NOAA Fisheries Service
 Northeast Regional Office
 55 Great Republic Drive
 Gloucester, Massachusetts, 01930-2276



NORTHEAST HOOK FISHERMAN'S ASSOCIATION



SUBJECT: NEFMC COUNCIL/NMFS INTENT TO IMPLEMENT DOCKSIDE MONITORS FOR HANDGEAR VESSELS FOR AMENDMENT 16

Dear Ms. Kurkul,

We represent a group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use Rod and Reel or Handlines 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 very 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.

The members of the NEHFA were very surprised to learn that when Amendment 16 was implemented, starting in 2012, fishermen using Handgear to catch groundfish in federal waters will be required to have their catch monitored by very costly private contractors who may charge in the range of \$50 to \$60 per hr to count the small quantity of fish our fishermen may land in a day. This is very troubling since the charges for dockside monitoring services, will every time exceed the value of the Handgear fisherman's catch not to mention all the regular expenses that fishermen incur (fuel, insurance, maintenance, bait, etc.).

I personally spoke with several NEFMC members and they were quite honestly shocked that the final rule requires dockside monitors for handgear vessels. We believe this was not the intent of the Council nor was there any mention of applying dockside monitors to Handgear permits when A16 was developed.

Handgear fishermen are currently required to submit VTR reports under penalty of stiff fines to document their catch. We are also required to only sell our groundfish to federal dealers who must submit weekly reports of our minimal catch. Our fishery has very slow catch rates, low trip limits, inefficient gear (rod and reel, tub trawl) and we catch very little if any species so called "choke species" that may require more stringent monitoring. We are requesting the service to exempt federally permitted Handgear fishermen from Dockside monitoring if they fish under the "Common Pool".

Logistically, it is impossible for a handgear fisherman to wait at a busy boat launching ramp in the middle of the summer for a fishery observer to show up and count the small quantity of groundfish that they may catch. Should any fisherman get a bill of \$400 to land \$50 worth of fish? We understand that the NMFS will pay for this service but there is no guarantee the NMFS will pay 2012 or further in time. Does the NMFS wish to pay several hundred dollars to document landing \$50 worth of fish? We feel this money should be spent on more important issues than documenting our minimal catch. One option to capture our landings, is to slightly modify the MRIP recreational survey, to add a question if this trip is a commercial one and if so ask for our fishery Permit number.

The one question the NMFS and the Council must ask when applying fishery management rules to small boat handgear fishermen is: Will this work for the 17 year old kid who borrows his Father's 16' skiff, trailers the boat down the road, for the day, to try and make a few bucks jigging cod instead of flipping burgers? We are the smallest of the small boat fleet and dockside monitoring will eliminate all handgear fishermen from the New England Ground Fishery. Is this what the NMFS wants?

Respectfully
 Marc Stettner
 President

CC: NEFMC

NEHFA MEMBERS: RON ONORATO (NY), JOHN ZACKS (CT), PAUL KEHLENBACH (CT), JOSEPH CRISTOFALO (CT), MICHAEL PLATA (RI), STEPHEN BARIUSO (MA), THOMAS FOLEY (MA), ROBERT CARDONE (MA), WALTER TOLLEY (MA), JAMES GOUTART (MA), KERRY DOON (MA), TED LICENZA (MA), DONALD BERTHE (MA), MARIO TROMBI (MA), LARRY ROGERS (MA), CHUCK BUTLER (MA), KEVIN TWOMBLY (MA), JACK HILTON (MA), EDWARD COCCESIALI (MA), RONALD KRAUSE (MA), KEVIN HARNONIS (MA), GEORGE COSTA (MA), GEORGE DEMARAIS (NH), SCOTT RICE (NH), MARC STETTNER (NH)

RECEIVE BY: DATE: May 24, 2010

cc: Council, TN (6/3) ah 6/4

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91 FAIRVIEW AVE
 PORSTMOUTH NH 03801

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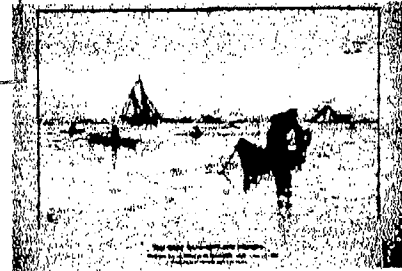
**NORTHEAST HOOK
 FISHERMAN'S
 ASSOCIATION**

June 2, 2010

New England Fishery Management Council

50 Water Street, Mill 2
 Newburyport, MA 01950
 Phone: (978) 465-0492
 Fax: (978) 465-3116

NEW ENGLAND FISHERY
 MANAGEMENT COUNCIL



Dear Rip Cunningham:

We represent a group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use Rod and Reel or Handlines 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 very 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.

The NEHFA requests that the Groundfish Committee review the attached letter to the NMFS.

We are requesting that NMFS and the NEFMC exempt federally permitted Handgear fishermen (HA and HB) from Dockside monitoring if they fish under the "Common Pool" in the next framework. Please include this exemption in the next Framework for Groundfish.

We do not believe that this was the intent of the NEFMC to have Dockside Observers for handgear fishermen (Groundfish HA & HB permits) when Amendment 16 was developed however because Handgear vessels were not explicitly exempted in the A16, the NMFS could not provide relief from this requirement when the fishery plan was approved.

Due our small trip level catches and because of the limitations of our gear (Handgear), this would be a very high financial burden that will eliminate us from the groundfishery in 2012 when all common pool fishermen will be subject to dockside observers.

Respectfully,

Marc Stettner
President

NEHFA MEMBERS: RON ONORATO (NY), JOHN ZACKS (CT), PAUL KEHLENBACH (CT), JOSEPH CRISCUOLO (CT), MICHAEL PLAIA (RI), STEPHEN BARUSSO (MA), THOMAS FOLEY (MA), ROBERT CARBONE (MA), WALTER TOLLEY (MA), JAMES GOULART (MA), KERRY DOON (MA), TED LIGENZA (MA), DONALD BERUBE (MA), MARIO TROMBI (MA), LARRY ROGERS (MA), CHUCK BUTLER (MA), KEVIN TWOMBLY (MA), JACK HILTON (MA), EDWARD COGGESHALL (MA), RONALD KRAUSE (MA), KEVIN HARNOIS (MA), GEORGE COSTA (MA), GEORGE DEMARAIS (NH), SCOTT RICE (NH), MARC STETTNER (NH)

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cc: Connally, TN (6/3)



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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

May 11, 2010

Mr. Gary Locke
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Mr. Locke:


Last week, the New England groundfish fishery underwent some major changes with the implementation of sector management. Participants in the fishery face numerous challenges related to this implementation, including restructuring business operations and meeting future monitoring and administrative costs. High operating costs, including the cost of fuel, are also affecting profitability of vessels and remain a concern.

Recent studies suggest that the fleet is overcapitalized, with catch limits set at relatively low levels and stock assessments showing that several New England groundfish stocks are still overfished. Rebuilding requirements adopted by the New England Fishery Management Council (NEFMC) in accordance with the Magnuson-Stevens Act are limiting catches of many key groundfish species in the short term. At the same time that overall catches must be constrained to low levels, some individual operators received very small potential sector contributions which serve as their allocation. Such individuals may be forced to consider leaving the fishery.

Given these constraints upon the groundfish fleet, it is highly likely that some participants will exit the fishery in the near future. The NEFMC, at its April 29th meeting in Mystic CT, recognized a need for a permit buyback in the multispecies fishery in New England. Such a buyback would enable participants to sell their permits in an organized way that could retain geographic, social, and economic diversity of the fleet. It could also enable participants who choose to continue fishing to do so with greater profitability and operational certainty.

Timing is critical. The buyback would need to be executed as quickly as possible in order to minimize the economic and social effects of these actions.

Sincerely,


John Pappalardo
Chairman



New England Fishery Management Council

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

John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

May 12, 2010

Dr. Nancy Thompson
Science Director
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

RE: SBRM observer coverage for April 2010 to March 2011

Dear Dr. Thompson:

Thank you for arranging the presentation by Dr. Wendy Gabriel on SBRM observer coverage prioritization recommendations at our January Council meeting. Based on the information presented the New England Fishery Management Council has the following comments on the observer coverage levels recommended in the report.

The Council strongly supports the recommendation for a high level of observer coverage for New England groundfish fleets to help the implementation of sector provisions as part of Multispecies Amendment 16. The Council, however, does not understand the reason for the high level of coverage recommended for the limited access scallop fleet in open areas in New England. The recommended level is 1,153 days higher than that projected to meet the objectives of the SBRM amendment. Although according to Dr. Gabriel's presentation turtle monitoring requirements in industry-funded scallop fleets are explicitly included in the analysis, it is not clear how many of the recommended observer days are the result of turtle monitoring requirements and how many are needed to provide either bycatch monitoring or stock assessment information as noted in Table 5 (SBRM prioritization information for April 2010 to March 2011). Given the very low number of turtle interactions reported for the limited access scallop fleet in the Mid-Atlantic open areas (only one interaction in 2008 Q3 through 2009 Q4), it does not seem that so many observer days should be assigned to this fishing activity if their main purpose is to monitor a probable low level of turtle interactions.

Again we appreciate your cooperation in providing our Council the information on the recommended coverage levels. Please contact me if you have any questions about our comments.

Sincerely,

Paul J. Howard
Executive Director



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

May 6, 2010

Mr. John Oliver
Deputy Assistant Administrator for Operations
NOAA/NMFS
Room 14743, 1315 East-West Highway
Silver Spring, MD 20910

RE: 2012 At-Sea Monitoring (ASM) Costs for New England Groundfish Sectors

Dear John:

I am writing to bring your attention to a very serious fiscal issue pending for the 2012 New England Groundfish fishing year. As you know, Amendment 16 to the Northeast Multispecies FMP includes a provision for At-Sea Monitoring (ASM) with the appropriate level of coverage to be set by NMFS. It is our understanding the agency has decided that 38% is the likely target with a minimum level of 30% coverage. We also understand that based on 2010 numbers (assuming 8,800 DAS) the agency's preliminary cost estimate for 30% ASM is \$4.6M. Our primary concern here is for the New England fishing industry's ability to shoulder cost of both ASM and dock-side monitoring starting in 2012.

Currently, the Agency is funding ASM at similar levels for both 2010 and 2011. However, we understand programmatic funding for ASM may not continue in 2012. If this comes to pass the New England fishing industry, already facing difficult times, will need to carry additional financial burden. It is imperative we raise this issue now as the Agency continues its work on the 2012 budget. We hope you will make every effort to provide continuing support for the ASM program in 2012 and beyond.

Thank you for your consideration of this timely and crucial issue facing New England Groundfish Sectors in 2012. Please do not hesitate to contact me should you have any questions or need additional information.

Sincerely,

John Pappalardo
Chairman

cc: Council members



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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

June 4, 2010

Mr. Robert Ballou, Acting Chief
Rhode Island Department of Environmental Management
Division of Fish and Wildlife
Marine Fisheries Program
3 Ft. Wetherill Rd.
Jamestown, RI 02835

Dear Mr. Ballou:

On April 30th, the New England Fishery Management Council received a letter indicating the State of Rhode Island's intent to submit an application for a new sector that would operate under the Northeast Multispecies Fishery Management Plan (FMP).

In order for the Council to approve this request, more documentation is necessary in accordance with Amendment 16 to the FMP: at the minimum, a preliminary operations plan and draft Environmental Assessment will need to be prepared. The relevant section of Amendment 16 is §4.2.3.2 (page 99), "Preparation of a Sector Formation Proposal and Operations Plan", which expanded upon requirements already listed in Amendment 13. We have attached the relevant text for your reference. While all of this information will eventually need to be prepared, initially the Council can work with a less detailed proposal.

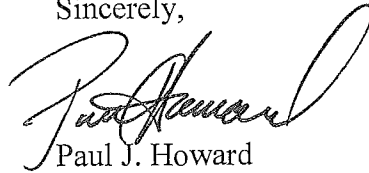
The initial requirement is to submit a request accompanied by a preliminary operations plan; eventually an appropriate NEPA document must be submitted to the Council. Please note there is no guarantee that an action may be completed in time for the sector's planned implementation date; that will depend on Council priorities.

The intent of these requirements is so that the Council can evaluate whether they want to pursue formation of the sector. The Council will then decide when it wants to initiate an action to implement the sector. The documents should provide enough detail so that the Council has a general idea of the size and planned operations of the sector. We don't expect the initial operations plan to be completely fleshed out. We assume that there may be some back and forth between the sector organizers and the Council prior to submission of the final EA and operations plan to NERO.

Please make it very clear in your request what elements that define your sector you want included in the implementing action. So - as an example - for a lease-only sector, if you think there is a possibility that at some point in the future the permits in that sector may actually fish, spell out that possibility; don't say it will only be used for leasing or (in our opinion) that sector could not fish in the future without another management action.

Please don't hesitate to contact the Council office if you have any additional questions about the sector proposal and formation process.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul J. Howard", written in a cursive style.

Paul J. Howard
Executive Director

Sector Submission Requirements

The operations plan needs to include the following elements:

- *“A list of all participants and a contract signed by all participants indicating their agreement to abide by the operations plan accompanying the proposal.*
- *With the implementation of Amendment 13, a sector’s operations plan must detail the following:*
 - *A list of all vessels that would be part of the sector including an indication for each vessel of whether it would continue to fish;*
 - *The original distribution of catch history or TACs;*
 - *A detailed plan for consolidation of TACs or DAS, if any is desired, including a detailing of the quantity and duration of any redistribution of TAC or DAS within the sector;*
 - *A plan and analysis to show how the sector will avoid exceeding their allocated TACs (or target TACs if the allocation is in terms of DAS). This plan should include provisions for monitoring and enforcement of the sector regulations, including documentation of both landings and discards;*
 - *Rules for entry and exit to the sector (see more on this in next section) including procedures for removing or disciplining members of the sector who do not abide by its rules. Rules for entry and exit must also define how catch or DAS history that is developed by vessels participating in a sector is assigned to each vessel;*
 - *Procedure for notifying NMFS if a member is expelled from the sector for violation of sector regulations.*
- *Detailed information about overage penalties or other actions to be taken if the sector exceeds its ACE. An ACE overage means the catches by a sector’s vessels exceed the ACE possessed by the sector after considering all ACE transfers that take place for the current fishing year (including those that occur up to two weeks into the following fishing year, as allowed by the ACE transfer provisions, see section 4.2.3.7);*
- *Detailed information about the sector’s independent third-party weighmaster system that is satisfactory to NMFS for monitoring landings and utilization of ACE;*
- *Detailed information about a monitoring program for discards (see additional discussion of monitoring discards in Section 4.2.3.5).*
- *A list of all Federal and State permits held by vessels participating in the sector, as well as a requirement to notify NMFS if a member is expelled;*
- *A list of specific ports where members will land fish; specific exceptions should be noted (e.g., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports; this requirement is in addition to the requirement for detailed information about the sector’s independent third-party weighmaster system.*
- *TAC thresholds and details regarding the sector’s plans for notifying NMFS once the specified TAC threshold has been reached.*
- *Identify potential redirection of effort as a result of sector operations, and if necessary propose limitations to eliminate adverse effects of any redirection of effort.*
- *Describe how groundfish will be avoided while participating in other fisheries that have a bycatch of groundfish if the sector does not have ACE for the stocks caught. This is only required if the sector wishes to participate in those fisheries where the sector would normally be required to apply any groundfish catches against the sector’s ACE (see section 4.2.3.4) and the sector does not anticipate being allocated ACE or acquiring the needed ACE through transfers.”*

In addition, *“An appropriate NEPA document assessing the impacts of forming the sector must be prepared. This will be written by the sector applicants, and submitted to NMFS through the Council. Any*

changes in fishery regulations or fishing practices that may result on the basis of sector-based management will be addressed in the regulations that implement a particular sector, and in the EIS or EA corresponding to the creation or continuation of that sector. Such NEPA documents prepared by the sectors (an EA or EIS) will be tiered from the Amendment 16 EIS. NMFS Northeast Region NEPA staff developed specific guidance for sectors on the preparation of EAs. They are providing assistance to sector leadership in writing documents and developing sector plans that meet the relevant requirements of the law.

*“The sector operations plan must be reviewed and approval given before the sector can operate. A sector must submit its **preliminary operations plan** to the Council no less than one year prior to the date that it wants to begin operations. **Final operations plans** may cover a two-year period and must be submitted to NMFS no later than September 1 prior to the fishing year in which the sector will operate. NMFS may consult with the Council and will solicit public comment on the operations plan consistent with the Administrative Procedure Act (APA). Upon review of the public comments, the Regional Administrator may approve or disapprove sector operations, through a final determination consistent with the APA.”*