

NORTHEAST SEAFOOD COALITION

December 30, 2011

The Honorable Olympia J. Snowe
United States Senator

The Honorable Susan M. Collins
United States Senator

The Honorable Jeanne Shaheen
United States Senator

The Honorable Kelly Ayotte
United States Senator

The Honorable John F. Kerry
United States Senator

The Honorable Scott P. Brown
United States Senator

The Honorable Jack Reed
United States Senator

The Honorable Sheldon Whitehouse
United States Senator

The Honorable Joseph I. Lieberman
United States Senator

The Honorable Richard Blumenthal
United States Senator

The Honorable Charles E. Schumer
United States Senator

The Honorable Kirsten E. Gillibrand
United States Senator

Dear Senators:

Over the past year you and your constituents have been confronted with a dizzying array of critical policy, management and scientific issues pertaining to New England groundfish management. As the year comes to a close, I would like to take this opportunity to provide some historical context for the role the Northeast Seafood Coalition (NSC) has played in this process, and an update on where the organization stands on these issues today. As always, we deeply appreciate your efforts and the opportunity to work with you in the coming year to achieve a strong and vibrant groundfish fishery.

Background

The NSC has played a pivotal role in the “Northeast Multispecies” (groundfish) fishery and its management. NSC was the sponsor of 12 of the 17 sectors now operating in the fishery including one serving as a ‘lease-only’ sector. At this writing, 227 active trawl, gillnet and hook gear vessels with 513 groundfish permits are members of the NSC-sponsored “Northeast Fishery Sectors” (NEF sectors); operating in ports from Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York. The NEF sectors account for a significant majority of the permits and sector allocations in the New England groundfish fishery today.

NORTHEAST SEAFOOD COALITION

Consistent with its longstanding support for family-owned businesses and a diverse fishery, NSC sponsored and designed the NEF sectors to be inclusive of the full diversity of fleet and community demographics that were representative of the entire groundfish fishery. This included vessel size, gear, target stocks and home ports throughout the full range of the fishery. The opportunity to join NEF sectors was open to all groundfish permit holders regardless of the size of their initial allocations or whether they were members of NSC.

In addition, NSC restructured the initial sector membership fee for all active sector members to accommodate the financial challenges faced by many fishermen in order to make it possible for even more fishermen to participate. While the collection of sector membership fees was essential to cover the administrative and legal costs associated with sector establishment and development, NSC was able to reduce these fees in part through securing state and federal funds to help cover these necessary costs. In all respects, NEF sectors were developed with a deliberate and unique commitment to openness and inclusiveness.

Further, NSC developed the NEF sectors to be community-based and to have an internal self-governance system designed specifically to empower each sector (through its operations plans and associated contractual documents) to protect and preserve its unique demographic and economic integrity. Each sector was established as an individual 501(c)(5) corporation with the ability to exercise independent, sovereign control over its allocations and internal decision-making process involving such operational issues as catch management, trading, reporting, enforcement and joint and several liability.

In anticipation that sector operational costs and efficiencies would become a significant challenge to the viability of individual sectors and the sector system as a whole, NSC further developed the Northeast Sector Service Network (NESSN) to provide the NEF sectors with the benefits of administrative and operational economies of scale in performing the many sector functions required under Amendment 16. NSC now serves as the policy voice for the NEF sectors; providing all NSC members with a collective, more effective voice in the fishery management process.

Finally, while all NEF sector members are members of NSC, NSC does not possess or exercise any legal or financial control over NESSN or the NEF sectors, and it has not derived any financial windfall from their establishments or operations. Today NSC operates with the same budget as it did prior to Amendment 16 under the old days at sea (DAS) system, and the primary sources of revenue continue to be a per-pound assessment on landings and an annual fundraiser.

NORTHEAST SEAFOOD COALITION

Catch Shares

NSC has not taken an official position in support or opposition to catch share policy. Although NSC has repeatedly expressed our grave concerns over the negative impacts to family-owned fishing business and their communities which can be derived from catch share programs, NSC has remained deliberately silent on the recent national debate because we acknowledge that this is a highly complex issue that must be addressed fishery by fishery.

To be clear, the groundfish ‘catch share’ sector management system was not NSC’s preferred management alternative during the Amendment 16 process. NSC raised many serious concerns to the Council and NMFS regarding specific elements of the sector system during the Amendment 16 process, and seriously questioned whether this specific ‘catch share’ system would lead to detrimental consolidation and a corporate take-over of the fishery.

Instead, recognizing that continuing the devastating series of DAS cuts under the status quo was also unacceptable and did not comply with new MSA mandates to end overfishing, rebuild overfished stocks and to establish Annual Catch Limits (ACLs) and Accountability Measures (AMs); NSC developed and sponsored an entirely different and innovative approach for transitioning to an output control system that would have satisfied those mandates. NSC’s proposal, known as the “Points System”, received considerable support from many individual fishermen throughout the region during the Amendment 16 scoping process. Ironically, NSC’s proposal was ultimately rejected by the Council and agency without being analyzed because it was considered ‘too complicated and time consuming’ in the Council’s rush to meet the deadlines for achieving those statutory mandates. Many fishermen continue to lament that decision today.

Nevertheless, NSC also strongly urged the Council to consider a broader range of options for designing the sector management option itself. These included alternative formulations of the initial allocation criteria that were intended to reduce the adverse impacts we anticipated many fishermen would experience from the transition to sector management. The specific focus of these alternatives was on the need for the initial allocation formula to account for *both* catch history *and* prior investments in Days At Sea (DAS), and to ensure that all commercial, recreational and existing-sector fishermen were treated equitably under the allocation baselines as required by the MSA. NSC even contracted an independent economic analysis of allocation criteria alternatives in an effort to ensure their full consideration and understanding by the Council. This turned out to be the only truly meaningful, in-depth economic analysis of allocation options performed during the Amendment 16 process.

NORTHEAST SEAFOOD COALITION

As we have seen, the anticipated adverse impacts of Amendment 16 proved to be very real for a significant number of fishermen. These adverse impacts were indeed driven in large part by the complete and instantaneous change in the currency basis for investment from a permit's DAS allocation to its catch history. For many fishermen, such stranding of their prior capital investments in DAS allocations was exacerbated by the disproportionate effects prior input controls (eg. closures, trip limits) had on their access to certain stocks and thus, their catch history. In nearly all cases, such impacts were not only predictable; they were clearly predicted by NSC during the Amendment 16 process.

Thus, only when it became clear that the Council was firmly committed to adopting the sector approach notwithstanding our input to the contrary, NSC felt an unqualified obligation to our members and all groundfish fishermen alike to fully engage in the sector system so that no fishermen would be forced to suffer the far greater harm of being excluded from sectors altogether.

Looking Forward

While the current sector management system is clearly flawed, it does provide a tool to comply with the new MSA mandates and a basis to move forward with improvements. It is critical to understand that it is not possible to simply revert to the previous DAS system because that system did not comply with the new statutory mandates. Further, another fundamental switch from the current sector allocation system to some other management/allocation system would likely repeat the stranding of capital investments in the current system, and inflict yet another round of unknown adverse impacts on our fishermen and communities. Our fishermen simply cannot weather another sudden disruption in the fundamentals of their small businesses. The national debate over catch share policy is not the appropriate focus for the groundfish fishery; improving sector management is. Sector management is now our reality and the context within which we must operate.

With that in mind, NSC's present focus and commitment is to work with the sectors, the Council, NMFS, Congress and state and local governments to improve sector efficiencies, reduce costs, improve access to the resource, achieve and increase utilization of the Optimum Yield (OY) including through increased ACLs, and mitigate the adverse, often disproportionate impacts of the transition to sectors on many fishermen. Many of these issues were presented in detail by NSC in its October 19, 2011, letter to the Council in advance of its "Sector Lessons Learned" workshop held in Portland, ME later that month which we would be pleased to send to you at your request. This letter was the product of extensive input from all 12 of the NEF sectors. The bottom-line is that we are working as hard as we can to make this system work as best as it can for the fishermen, and we feel that progress is being made. We are very grateful

NORTHEAST SEAFOOD COALITION

for the crucial contributions many in Congress and the agency itself have made towards these objectives.

Gulf of Maine Cod

As described above, the 12 NSC-sponsored NEF sectors encompass the full diversity of the fishery and each maintains its unique demographic character. Consequently, changes in stock-specific fishery science and management have had and will continue to have disparate impacts on each of these sectors.

As a striking example, in contrast to the previous 2008 assessment which presented a very optimistic projection for the Gulf of Maine (GOM) cod stock to be fully rebuilt by this time, the preliminary results of the recent stock assessment suggest that fishing mortality will need to be drastically reduced. As you well know, the GOM cod stock is at the very heart of the inshore groundfish fishery, and the associated sectors, ports and communities from Maine through Cape Cod. The management response to this stock assessment result may have devastating, disproportionate impacts on those sectors and fishermen that depend on access to the full suite of Gulf of Maine groundfish stocks including cod.

It is critical to understand that the apparent status of the GOM cod stock is not a failure of fishermen to comply with the law. Not once has the catch limit for the groundfish fleet been exceeded in the eight years of this rebuilding plan. Further, this is not a failure of fishery managers to embrace the science they were provided. The Council's catch limits were designed specifically to prevent overfishing and rebuild stocks in the 10-year timeframe consistent with the law and the science they were provided. Only retrospective analyses performed years after the fact have suggested that these original catch limits (with which the fishery complied) were insufficient to prevent overfishing and rebuild the stock.

Instead, the GOM cod situation represents a flaw in fishery policy that places demands on science that exceed its capacity to predict nature. Science cannot sufficiently or reliably predict six, eight, much less ten years into the future what recruitment, natural mortality, growth or the dynamics of the Gulf of Maine ecosystem will be. Nor can it sufficiently predict how these parameters affect overall stock productivity (MSY) over time. This is especially the case in one of the most oceanographically and biologically dynamic ecosystems in the world. In this respect, because it is so narrowly constructed to achieve a predetermined biomass target in a predetermined, arbitrary number of years, current MSA rebuilding policy is doomed to fail again and again.

With this in mind, as a long term response, the GOM cod situation provides overwhelming impetus for Congress to fundamentally reevaluate current policies governing the

NORTHEAST SEAFOOD COALITION

rebuilding of overfished stocks and the science that drives it. This would be a good time to consider a policy that accommodates the need to closely and perhaps frequently monitor stocks in dynamic, multispecies ecosystems but which also provides fishery managers with more innovative tools to ‘smooth-out’ their management response (catch limits) when rather wild, often improbable swings in estimated abundance occur—whether increases or decreases. Most fisheries (and stocks) would fare far better over time with a relatively stable catch limit that sacrifices the highs but also avoids the lows.

Further, any serious reevaluation of rebuilding policy must include the arbitrary rebuilding timeframe requirements set forth in MSA section 304(e)(4). This policy exacerbates the scientific issues described above by putting fishery managers in a box when, near the end of a rebuilding period, an assessment shows that the stock is below the rebuilding trajectory and cannot achieve the rebuilding target in the time remaining—even if the fishing mortality rate is reduced to zero. This accomplishes little biologically but is catastrophic to the fishery. Absent meaningful reform of or alternatives to this narrow policy, we can expect to find additional groundfish stocks—and fish stocks across the nation—in the same pointless predicament as they near the end of their arbitrary rebuilding periods. Indeed, GOM cod is not the first example. We recently faced a nearly identical situation with the Southern New England winter flounder stock, and no one should be surprised to find this situation repeated when in February 2012 a number of additional groundfish stock assessments will be conducted. Congress should seriously consider a policy that provides managers with the additional authority to choose alternative rebuilding strategies including a fishing mortality rate-based rebuilding strategy (such as an Fmsy-based strategy with an appropriate uncertainty-based buffer) that naturally reflects stock (and ecosystem) productivity over time.

For the immediate term, it is clear the GOM cod situation also reflects some critical areas for making improvements to the science of groundfish stock assessments. These include data input as well as the assumptions and methodology of the modeling analyses. This is not a criticism of the stock assessment scientists who clearly did the best job with what was available to them within the constraints of their terms of reference. However, there are important limitations to the GOM cod assessment that must be openly acknowledged and addressed prior to the agency or the Council taking a definitive long-term management response. The following represent some of the key elements that we feel must be reevaluated by the agency and/or the Scientific and Statistical Committee (SSC) as part of any ‘new’ or revised GOM cod stock assessment process:

- For a very long time there have been questions about the need to continually update and improve upon the groundfish trawl surveys performed by NOAA research vessels for

NORTHEAST SEAFOOD COALITION

the purpose of generating fishery-independent indices of stock abundance which are central to the assessments for all groundfish stocks including GOM cod. Serious issues still remain as to the correct calibration of the new RV Bigelow to the previous RV Albatross as well as the effectiveness of the new RV Bigelow to catch certain sizes (ages) of certain stocks. Among other efforts, this strongly suggests the need for a 'side-by-side' trawl survey using an industry vessel(s) to help calibrate the RV Bigelow.

- For a long time there has also been the recognition that a fishery-dependent index of abundance using the fishery's catch-per-unit-effort (CPUE) data would be a critical addition to the stock assessment process. Among other things, a CPUE-based index of abundance can provide an important cross-check to the trawl survey-generated index of abundance. For GOM cod, this could provide an important basis for resolving why the fishery-independent trawl surveys suggest such a very stark difference in stock status when compared to the performance of the fishery. We understand that creating a CPUE index presents challenges due to the variety of input controls that have been in effect in the fishery but we think it extremely important to address those challenges and build and use an appropriate CPUE index.
- Groundfish stocks are part of a very complex and dynamic ecosystem and environment. Basic population dynamics such as predation which can have profound implications for stock abundance should be but are not accounted for in the current stock assessment models. Similarly, a reevaluation of the current assumptions regarding the stock structure of GOM cod must be a priority and may have the most profound implications of all.
- Finally, a major revision in the collection and estimation of recreational catch is in process and the results will be available in early 2012. This, along with a reevaluation of the assumptions for post-release mortality in all hook fisheries, are priorities which may have a very significant impact on the results of a new or revised GOM cod assessment.

Once these elements are fully evaluated and their importance better understood, we hope the agency and SSC will move forward over the course of the next year to fully incorporate those changes to the assessment data, assumptions and analyses that are deemed appropriate. Congress must play a critical role in providing the agency with both the policy direction and funding necessary to finally make these critical scientific improvements.

In the interim and during this scientific process, we strongly urge that the SSC not be requested to provide a formal recommendation for an Acceptable Biological Catch (ABC) which

NORTHEAST SEAFOOD COALITION

would trigger the Council process for setting a definitive Annual Catch Limit (ACL). We fear this rigid process would produce an immediate, devastating result for our fishery from which the fishery would never recover.

Instead, we strongly recommend that the SSC be encouraged to adopt an 'interim catch level' that achieves at least in the short term (one year) the overarching intent of Congress in the MSA to strike a balance between the goals of achieving a sustainable resource and a sustainable fishery. In addition, we have urged the agency to consider utilizing its authority to promulgate an interim rule that implements the SSC's interim catch level pursuant to MSA section 304(e)(6) for the duration of fishing year 2012. Again, Congress can play a critical role in providing a clear policy direction to the agency to pursue this sensible approach for addressing the GOM cod situation.

Once again, we urge Congress, the agency and the Council to consider both the immediate needs to address the GOM cod situation as well as the need to proactively address the fundamental underlying scientific and policy issues that are certain to be repeated for other stocks in the region and nationwide.

Thank you for again for all of the many extraordinary efforts you have made on behalf of our industry, and thank you for considering NSC's views on these critical issues. We all share the goal of ensuring a strong and vibrant groundfish fishery. We look forward to continuing our work with you to achieve these objectives in the coming year.

Sincerely,

Jackie Odell

Jackie Odell,
Executive Director