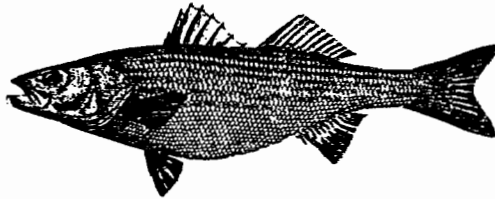


Amendment 16 to the Northeast
Multispecies FMP
Scoping Comments Received
(Sectors)

COMMERCIAL ANGLERS ASSOCIATION



Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

DEC 29 2006

Dear Mr. Howard:

December 26, 2006

We ask that you pass a copy of this letter on to each Council Member.

Since the inception of American commercial fishing--about four hundred years ago--the average "working stiff" has had an opportunity for getting ahead that is historically unique. Rather than labor and punch a time clock for an employer for a fixed wage ashore, he found in the New World the ability as a fisherman to do far better materially, subject to hard work, his natural talents, and luck.

The ability of any U. S. citizen to opt for the life of an independent owner-operator is worth maintaining, and is fully compatible with conservation. It is not compatible, however, with the course being pursued by NMFS and the New England Regional Fishery Management Council.

Opportunity is being rapidly eroded, not by stricter conservation standards, but by the creation of management plans by many existing fishermen petitioning the Council to shut the door on new entrants. (They were once new entrants themselves, but now believe that they are entitled to economic protection.)

The latest depredation against historical opportunities to enter the fisheries management scene is "sector allocations", such as the recently-created George's Bank Fixed Gear Sector for Framework Adjustment 42 to the Northeast Multi-species Fishery Management Plan. (It was patterned after the other recently granted George's Bank Hook Sector).

These initial actions to accommodate such "self-selecting" groups represent a step backwards for fisheries, rather than constituting a putative "model" for the future.

To begin with, the proposed grant is largely conservation-neutral, and neither accelerates ground-fish re-building objectives, nor on balance mitigates the economic or social impacts of Amendment 13. (To the extent that some people would be advantaged, others would be concomitantly disadvantaged.)

Such Sectors have not been characterized as accurately as they could have been, being labeled in a warm and fuzzy way as

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cc:TN(1/3)

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758-2731

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being "community-based".

If an individual attempts to partake of that Sector's allocation by 1) using the approved fishing gear in that area; 2) operating his boat from one of the area's ports; or 3) changing his residence to that geographic area, he is still shut out. The GB Hook and GB Fixed Gear Sector allocations are more accurately understood as a type of private syndicate, albeit geographically-based.

Moving fisheries management toward this model represents more of a return to and re-imposition of precisely what impelled many of our fore-fathers to turn away from European countries and come here to fish: exclusive professional associations.

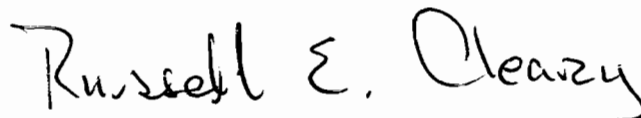
The Councils and the National Marine Fisheries Service should strive to 1) rebuild marine resources; 2) encourage more size and species-selective gears (sustainability); and 3) expand participation consistent with the spirit of the 14th Amendment to the U. S. Constitution--equal protection for all, under the law.

Delivering public resources into the hands of private individuals and private groups for their exclusive use, no matter how economically efficient for them, and no matter how salutary the gear-type, is an abuse of the system. We look to our leadership class to prevent, and not to facilitate and encourage, management plans that create two classes of citizenship.

The National Marine Fisheries Service and Councils should strangle this monster in its cradle. Attempts to create such new entitlements, the proliferation of which would impose a patch-work of "Sectors" along our coast, presents us with a new incarnation of fisheries-management competition and conflict; they do not mitigate such conflict. And, and they bar all but the politically-favored from participation.

It is time for the Federal government to recognize, as it did a century ago, that equality before the law should trump calls for economic protection. We suggest that you put a stop to "sector allocations" now, before this latest slippery-slope gets out of hand.

Sincerely,



Russell E. Cleary, Acting Executive Director

* 18, 19, 20, 21

Montauk Inlet Seafood Inc. Inlet Seafood Property LLC



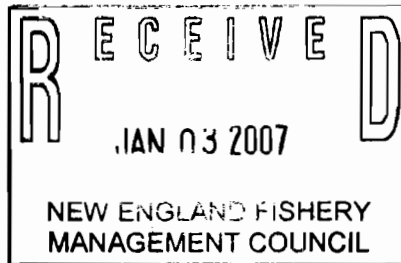
East Lake Drive PO Box 2148 Montauk, NY 11954
Ph 631.668.3419 fax 631.668.1225 inletfish@aol.com

December 29, 2006

Paul Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

RE: Multispecies Amendment 16

Dear ^{Paul} Mr. Howard:



We would like to work with the NEFMC to establish an Inlet Seafood Sector for the harvest of groundfish multispecies in the above captioned amendment. Montauk Inlet Seafood Inc packs and ships more fresh seafood than any other dock in New York State. It is owned by six commercial fishermen, all of whom had fleet DAS allocations before Amendment 13.

Because of our location on the border of the Mid-Atlantic and New England Fishery Management Councils, we are impacted as much by NEFMC regulations as we are by those of the MAFMC. Although both councils refer to and often set specific regulations for "Southern New England," the reference is geographical only; there is not a single management entity that takes into account our fleet's unique demographics, range, and multi-fishery characteristics. We believe that all of these factors make Inlet Seafood an ideal candidate for a Sector Management Plan that will define conditions under which sector members can harvest New England Multispecies.

Over the course of developing a specific plan to incorporate into Amendment 16, we will address the following:

> **Allocation of TAC.** We will document historical landings for sector participants through dealer landings reported to NMFS. Several Montauk boats were disenfranchised from groundfish participation through Amendment 13 because of the years of record chosen. We might, therefore, request an analysis of years other than the five preceding our proposal. In any case, we would request an allocation, not to exceed 20% of the overall quota, that reflects the total landings history, as a percentage of total groundfish catch, of sector participants.

> **Beneficial Impact.** As members of the MAFMC, our fishermen are extremely familiar with the advantages and disadvantages of a hard TAC quota. We believe, however, that many of the system's shortfalls are the result of trip limits, seasonal closures and restricted areas that are not necessarily in conjunction with stock movements and weather-based windows of opportunity. We will submit an analysis, in compliance with the National Environmental Policy Act, that will ensure stock conservation and indicate other resource efficiency advantages through a sector management program.

> **Sector Participation.** Membership in the Inlet Seafood Sector will be determined in the initial stages of sector definition. The sector plan will not proceed through the Amendment 16 process if fewer than five vessels express an interest in participating. Participating members who are owners of Inlet Seafood will set membership guidelines in compliance with the NEFMC Sector Allocation regulations.

> **Reporting Compliance.** Inlet Seafood personnel will be responsible for recording and reporting the total sector activity in compliance with the NEFMC Sector Allocation guidelines.

This is a minimal outline of the issues we will be discussing in the development of an Inlet Seafood Sector Management Plan. We look forward to a productive effort with NEFMC staff and council members as we proceed. Thank you in advance for your assistance and encouragement as we work towards developing a harvesting plan that results in a healthy and sustainable groundfish resource.

Yours truly


Sima Freierman
General Manager

Cc: Tom Nies
Patricia Kurkul

David Aripotch
F/V Cory & Leah
F/V Samantha & Mairead

Stuart Foley
F/V Highlander

William Grimm
F/V Jason & Danielle
F/V Perception

Richard Jones
Kevin Maguire
F/V Evening Prayer
F/V Pontos

Charles Weimar
F/V Rianda S

cc: TN(1/4) Received via fax - 12/29/06

December 24, 2004

Mr. Paul J. Howard
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

VIA E-MAIL: comments@nefmc.org

RE: SCOPING COMMENTS ON AMENDMENT 16

Dear Mr. Howard:

I am writing on behalf of the Cape Cod Commercial Hook Fishermen's Association (CCCHFA) to provide comments on the scope of issues to be considered in Amendment 16 to the NE Multispecies Fishery Management Plan (FMP).

Amendment 16 will focus on the adjustments that are necessary to comply with the mid-term adjustment procedures of the FMP to meet the fishing mortality rate objectives and to ensure that all groundfish stocks rebuild. The need for adjustments will be based in large part on the results of the 2008 stock assessments and the subsequent analysis of mortality rates and stock size. The CCCHFA is deeply concerned that this process will reveal that for most stocks, mortality rates continue to be excessive and that stock rebuilding strategies are not keeping pace with rebuilding schedules.

We believe that one of the most effective ways to control fishing mortality is through the hard TAC management. As you are aware, the Georges Bank Cod Hook Sector operates under an aggregate allocation of GB cod (hard TAC) where discards and landed fish count against the allocation. Fishing mortality is tightly controlled and easily determined. This model, which includes a full retention requirement, has eliminated waste, prevented our fishermen from overfishing GB cod and has contributed to the rebuilding of this important stock.

The CCCHFA strongly supports sectors as an effective conservation and management tool and is working with other groups of fishermen who seek to form their own sectors. Common among these fishermen is the understanding that output controls (hard TAC's) are more effective and preferable over input controls (DAS management). However, as we move forward in the development and perfection of sectors in the groundfish fishery a major roadblock is the inability of sectors to secure allocations of all groundfish stocks. As you know, Amendment 13 only provided NMFS the authority to allocate GB cod and as a consequence the Hook Sector and the recently approved Fixed Gear Sector are forced to use the DAS system as a way to control fishing mortality on non-cod groundfish species. This hybrid system minimizes the benefits of sectors and is

not an effective tool for controlling fishing mortality on non-cod groundfish. *Consequently, the CCCHFA requests that Amendment 16 include an authorization for NMFS to allocate all groundfish stocks managed under the FMP based on fishing history.*

In developing a sector program with allocations of all species, there will be situations where the level of allocation is extremely low (in most cases because the fishing gear used is incapable of catching certain species). For example, based on fishing history the Hook Sector would receive a very low allocation of flounders because they are not typically caught on hooks. In situations where allocations of a particular stock may literally be in the tens of pounds, the risk to the sector of exceeding its aggregate allocation is unacceptably high and could be a reason for not forming a sector. In these situations the CCCHFA believes that a de minimis or default allocation of 1,000 pounds would be an appropriate safeguard for both the sector and the conservation of the stock. *Consequently the CCCHFA requests that Amendment 16 include an authorization for NMFS to allocate a minimum amount (1,000 lbs or some other appropriate level) of TAC (of any groundfish species) to sectors where fishing history is less than the minimum allocation level.*

Lastly, and perhaps most importantly, the NEFMC will need to establish a baseline from which fishing history for all stocks is measured. As you are aware, Amendment 13 established 1996-2001 as the baseline for establishing fishing history for sectors formed to harvest GB cod. This baseline was chosen because it is the same period of time used to determine the initial DAS allocations to groundfish vessels. Unfortunately, the baseline for allocating other groundfish stocks or GB cod for sectors not formed to target GB cod is unclear. Without a universal baseline, allocations to future sectors and allocations of non-cod stocks to the Hook and Fixed Gear Sector will be stymied. *Consequently, the CCCHFA requests that Amendment 16 establish a universal baseline for the allocation of all stocks managed under the FMP. Moreover since a baseline other than the fishing years 1996-2001 would require a reallocation of GB cod to the Hook and Fixed Gear Sectors, the CCCHFA requests this period of time (1996-2001) be adopted as the universal baseline period.*

Thank you in advance for your consideration of these comments.

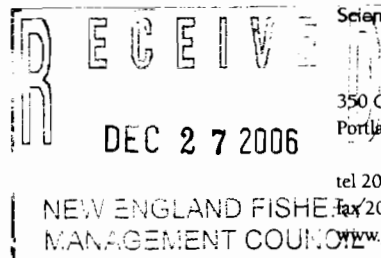
Sincerely,

Paul Parker
Executive Director
CCCHFA



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Science. Education. Community.



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December 22, 2006

Paul Howard, Executive Director
New England Fishery Management Council
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Newburyport, MA 01950

RE: Multispecies Amendment 16

Dear Captain Howard:

We respectfully submit the enclosed comments regarding potential changes to the Northeast Multispecies Fishery Management Plan that might be made through the upcoming amendment process. These comments suggest specific changes to rules for formation and operation of groundfish sectors. We believe that the recommended changes will increase the feasibility and effectiveness of sectors. These comments are narrowly focused on sectors; however, we see sectors as a potential complement to other management reforms that may be considered in Amendment 16.

Best regards,

Daniel S. Holland
Research Scientist

Visionary Donor
William G. Waldron
(1936-2001)

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Potential Changes for Rules for Sector Formation and Operation

Regulations implementing Amendment 13 of the Northeast Multispecies Fishery Management Plan allow self-selecting groups of permit holders to form sectors and apply for an allocation of catch based on the catch history of the group of permit holders. Sectors can allocate catch to individual members or use other means to control total catch of the sector (e.g. monthly catch limits, input controls, etc.).

Sector management offers a number of potential advantages over the current input control system. Sectors can devise a system for managing their allocation of catch that better meets both their economic and social objectives than the current system. While sectors do not have to operate with hard TACs on all species, and none of the existing sectors do so, the regulations suggests that by doing so, the sector members may be able to exempt themselves from trip limits and a number of existing input controls including seasonal effort restrictions, rolling closures and overall limits on days at sea (DAS). This offers sector members an opportunity to (1) increase efficiency by increasing flexibility of when and where they fish, (2) to concentrate on increasing quality and value of fish caught without concern for lost fishing time, (3) to pursue underutilized species without concern for lost fishing time; (4) to avoid having the return to port or discard fish once trip limits are reached; (5) to transfer and potentially consolidate catch privileges between sector members regardless of the vessel characteristics.

The industry has been slow to take up sectors despite the potential advantages they offer. To date there have only been two sectors approved and only one that is operational. No mobile gear sectors have been approved, and no sector has requested an allocation for all regulated species and been granted exemption from primary input controls (i.e., DAS limitations) although the Cape Cod Commercial Hook Sector has received some regulatory relief in the form of exemption from trip limits, the May closures and differential DAS counting.

We suggest that there are a number of potential problems with the rules that implemented sector provision for Amendment 13 that have undermined their potential value and inhibited their adoption as a management system. We discuss below some of the problems with current rules for forming and operating sectors and suggests (in bold italics) some potential changes to sector provision that might be included in Amendment 16.

Perhaps the most important issue is the difficulties involved in formation of a sector. Prospective sectors must devise an operations plan complete with a legal contract and system for monitoring catch of its members. They must also complete an environmental assessment. They must submit these at least a year before the sector can be implemented. The sector can only be implemented through a framework or amendment of the Council. The sector must also bear the costs of monitoring catches of its members and ensuring their compliance with the sector operations plan. There are no resources (monetary or advisory) available to prospective sectors, while the expertise and resources necessary to accomplish these tasks are substantial for an industry that is already in severe financial difficulty.

To make development of sectors more feasible, it would be extremely helpful if extension services could be provided to prospective sectors (particularly for preparation of environmental assessments) and/or if a financial facility whereby sectors can apply for a loans or grants to defray the costs of sector development. This may be outside the authority of the Council, however, the Council could request that NMFS provide these services.

Currently, approval of a new sector can only be done through a framework or an amendment. Unless the Council is prepared to undertake special frameworks for approval of sectors, this may be a serious hindrance to approval of new sectors. Although the Council rejected this option in Amendment 13, we believe it should reconsider the option to:

- 1. Set up a procedure for approving new sectors that does not require a framework or amendment.***

A key advantage of sectors over regulatory systems that impose homogeneous regulations across the industry is the ability to design a management system that suits the needs of the individuals involved within the constraints of their catch allocations. Relatively small groups of like minded permit holders can design a system that suits their needs. They can constrain their membership to individuals who trust each other, which is highly important since the entire sector membership is liable for catch overages on any sector member. The advantages of forming small sectors, are however, offset by the reduced flexibility individuals have to adjust their catch mix within the constraints of the overall sector allocation. Large sectors with many members, particularly if they fish in geographically diverse areas, have a greater ability to balance the species composition of their catch with their overall allocation and thereby avoid being shut down early for lack of one or more species while leaving substantial amounts of other species catch allocations uncaught. Larger sectors, however, are likely to run up against the constraint that no sector can be allocated more than 20% of any one stock. To alleviate this problem we recommend one or both of the following:

- 2. Allow sectors to trade catch allocations with other sectors provided that both sectors are operating under allocations of all regulated species. Trading could be allowed only within the year. A system could be developed to allow permanent trades, but this might not be possible if catch history baselines are not fixed .***
- 3. Remove or increase the 20% limitation on allocation of any one stock thereby allowing larger sectors to form, perhaps with smaller subsectors that operate relatively independently but are able to share monitoring systems and trade catch allocations amongst subsectors.***

We note that there may be good reasons to limit the share of any one stock that one sector can hold. Thus allowing sectors to trade catch allocations, within the year or on a permanent basis, may be preferable to eliminating the constraint on concentration of ownership.

Current regulations create a rolling period of catch history to be used for allocations. Sectors that take an allocation lock into a catch allocation as a percentage of the TAC based on the ratio of their catches during the five years relative to total commercial catches. However, the years used for allocation to future sectors continue to change. Furthermore, an individual vessel continues to

accrue a catch history based on its activity in the sector. While the overall sector history can not exceed (as a percentage of TACs) its prior history, individual members will potentially build catch histories that differ from their past history. These may exceed their past history if catches are consolidated on a subset of the total sector vessels. These rules create some perverse incentives. The rolling catch history creates incentives for individuals who think they can improve their catch histories to remain outside of sectors and fish competitively to increase catch history. The rules create incentives for sectors to forgo allocations of some species if they think they can increase allocations of those in future (though their ability to do so is likely to be limited by continued effort controls). Perhaps most problematic is the fact that permit holders within a sector that make their catch history available to other sector members will see their potential future allocations eroded. There is nothing to stop the individuals who have developed larger catch histories inside the sector from simply exiting the sector and using those increased catch histories to form a new sector. This presents a particular problem for sectors that might want to form permit banks to make additional catch history available to its members since the value of these permits would quickly erode. To avoid this problem and eliminate continued incentives to fish for catch history we recommend that the Council either:

- 4. Allow sectors to, if desired, write contracts that state that the catch histories associated with permit holders in the sector remain constant regardless of which vessels actually land the fish (e.g. catch history of one vessel effectively borrowed or rented by another remains with the original vessel).***
- 5. Set control dates that determine the years used for all future allocations to sectors, or;***

We recognize that recommendation 5 may disadvantage certain groups within the larger groundfish fishery if recent years are used for future allocations. Some permit holders have moved their effort into other fisheries or avoided overfished stocks. Others may have been disadvantaged by rolling closures or most recently by differential DAS counting. It may be more equitable and desirable to find another formula for allocation other than the most recent 5 years of catch history. The important issue is to resolve the allocation issue so that it does not create perverse incentives that are contrary to overall fishery management goals including ensuring the long-term conservation of the resource.