

NORTHEAST SEAFOOD COALITION

*Resubmitted as an attachment to the Northeast Seafood Coalition draft Amendment
16 comments June 8, 2009.*

May 3, 2007

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

Dear Captain Howard,

The underlying biological and ecological complexities of the New England groundfish fishery alone make this one of the most difficult to manage in the Nation. Compounding this complexity has been the evolution of a 'crazy quilt' of management measures that have disproportionately manipulated the behavior and catch history of the diverse fishing operations covered by this plan. Consequently, as has been widely anticipated, the Council's development of any allocation policies and strategies for this fishery will be exceedingly difficult.

NSC has been on record raising concerns to the Council that it must follow the most deliberate and transparent process possible in developing any allocation policies and strategies for the groundfish fishery that are fair and equitable to all participants. For example, on January 25, 2005, NSC sent a letter to then Chairman Frank Blount expressing grave concerns regarding certain allocative aspects of Framework 42. In that letter, NSC expressed concerns over "the allocation process degenerating into an *ad hoc*, first come first serve feeding frenzy that allocates access to groundfish resources inequitably among select participants in the New England groundfish fishery", and that "all permit holders must be given a reasonable and equal opportunity to participate in a decision-making process that is completely transparent to those participants."

Unfortunately, it does not appear that our letter had any lasting effect. A little more than two years later our concerns with the Amendment 16 / Sector Omnibus processes dwarf those we expressed about the FW42 process. At first, we were very optimistic that the Council was to follow a highly constructive path of soliciting and developing new and innovative ideas for more effectively conserving and managing groundfish biologically, and for allocating this fishery in the most fair and equitable, and least disruptive manner possible. NSC was pleased to have the opportunity to float one such proposal for creating a common currency (Points) for use in an effective catch-based (output control) management system.

Notwithstanding that promising start, it appears to us that the Amendment 16 / Sector Omnibus processes are now rapidly devolving into a race to take advantage of what

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may be unintended loopholes in the Magnuson-Stevens Reauthorization Act (MSRA) treatment of sectors in the new allocation policies. This may have profound and irreversible unintended consequences on the fishery and region. NSC had worked closely alongside other fishing groups and the conservation community to assist Congress in developing allocation policies and procedures for Limited Access Privilege Programs (LAPPs) designed to protect the interests of small and family owned/operated businesses, and of fishing communities vulnerable to reallocation. In particular, key members of the New England Congressional Delegation also insisted on the inclusion of provisions that ensure all New England fishermen have access to a deliberate and transparent referenda process for the consideration of any Individual Fishing Quota (IFQ) program.

In contrast, the ongoing Amendment 16 / Sector Omnibus discussions have yet to even draw the necessary distinction between using a sector as a legitimate management tool to achieve economic and administrative efficiencies and improve accountability in a fishery for which an allocation system is already in place versus using a sector to circumvent the hard-won statutory allocation policies and procedures that were deliberately designed to ensure fairness, equity, transparency and accessibility for all fishermen in an allocation process. As we all know, the later process now being followed is reliant on insufficiently developed sector policies and procedures set forth in Amendment 13. The apparent result will be the piecemeal re-allocation of the fishery that is tantamount to an IFQ program through a process that is far from transparent, and would be subject to inadequate review and accountability to the Council, industry and other stakeholders. We believe this is unacceptable and grossly inconsistent with Congressional intent.

Nevertheless, NSC has a responsibility to its large and diverse membership to provide frank information and advice concerning the direction and implications of the Amendment 16 / Sector Omnibus processes, particularly in the context of the April 30th deadline for Fishing Year 2008 sector applications. Given these circumstances, we felt we had no choice but to advise our membership to take immediate action to protect their best interests by submitting appropriate sector applications. If the NE groundfish fishery is to be irreversibly reallocated piecemeal through a series of IFQ programs disguised as sectors, then we feel it is incumbent upon us to ensure our members also have a secure seat at that table. Although the term "sector" has never been adequately defined, as a matter of practical reality, these applications define all of the true commercial fishing sectors now operating in the fishery as viewed in the context of vessel size, gear and geography (port). NSC's membership includes participants in all of these sectors.

It should be clearly understood that the submission of these sector applications in no way implies that NSC and its members have abandoned their commitment to work

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with the Council on its originally-stated objective to develop innovative and more biologically-responsive catch-based management alternatives through a deliberate and highly transparent process that is accessible to all fishermen, and that will result in a fair and equitable allocation of the fishery that minimizes reallocation and is least disruptive to NE fishing communities. We hope that these sector applications will become nothing more than placeholders in a vigorous sector evaluation process that will occur subsequent to the thoughtful establishment of an allocation system. But again, our members must protect their best interests since the ongoing process appears to incorrectly place the 'sector cart' before the 'allocation horse'. NSC continues to believe that the Points System would provide a highly desirable allocation foundation that is consistent with the Council's stated Amendment 16 objectives, and on which sectors could be overlaid very effectively. The Points System is also very responsive and accountable to the intense dynamics of the groundfish stocks and ecosystem.

It is our sincere intent for this letter to clarify NSC's recent actions on sector applications, and why we are so hopeful that the Council will remain on track to pursue a deliberate and transparent Amendment 16 / Sector Omnibus process that ultimately will fully consider and embrace the legitimate interests of all groundfish fishermen in the region.

Thank you for your consideration. We would be pleased to discuss this further with you or any of the Council members and staff at your pleasure.

Sincerely,

Jackie Odell
Executive Director

cc: Pat Kurkul
John Pappalardo