



March 23, 2015

John K. Bullard, Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Re: Comments on the Proposed Rule for Groundfish Framework Adjustment 53

Dear John:

The Northeast Seafood Coalition (NSC) submits the following comments in regards to Framework Adjustment 53 (FW 53) to the Northeast Multispecies Fishery Management Plan.

General Comments:

NSC remains seriously discontent over the lack of process and transparency surrounding the recent assessment for GOM cod. Please refer back to the NSC and Gloucester Fishing Community Preservation Fund letter dated October 17, 2014 to you and Dr. Karp where our concerns are expressed in detail. In this letter we state that such "trial" assessments should not occur again without a well-established and vetted process most notably if such an assessment runs completely contrary to the previous established process and guidelines set forth by the Northeast Regional Coordinating Council (NRCC). We highlight in this letter that there is a substantial difference between a transparent process of presenting and informing managers and the affected industry with updated data and a completely non-transparent process wherein the Agency unilaterally initiated and completed a stock assessment and then secured an adhoc peer review, all of which led to the statutory triggering of devastating management responses that are now being proposed under FW 53.

NSC would like to remind the Agency that FW 53 was originally intended a year ago to be the regulatory vehicle that worked towards a more proactive solution for the management of windowpane, notably northern windowpane. The loss of yield from other Georges Bank stocks due to the accountability measure currently in place for a non-allocated, non-commercially viable stock, has been a significant and unnecessary economic loss for the offshore fishery. Furthermore, requests were made by industry during Council meetings to review and update the assessment for windowpane; however the response was the fishery would need to wait for the next groundfish updated review as scheduled by the NRCC which is now scheduled for September 2015. This runs contrary to the process that was subsequently allowed for GOM cod.

Although NSC is supportive of incorporating the results of the 2014 benchmark assessment conducted for GOM haddock and, thus, revising the status determination for this stock under FW 53, NSC would like to highlight that strong year classes continue to be down-weighted in this assessment and the mixing between the GOM haddock stock and the much larger Georges Bank haddock stock remains unaccounted for. Also, the potential benefits of the ACL increase for GOM haddock for the commercial fishery hinges upon access to time and areas when GOM haddock is available. Unless the GOM cod protection measures are implemented as presently recommended and approved by the Council, the haddock ACL will have little economic benefits for the fishery, most notable the inshore commercial vessels most impacted by the proposed GOM cod ACL reduction.

Lastly, the status determination for Georges Bank winter flounder, based on the results of the 2014 assessment, indicates the stock is not overfished nor is overfishing occurring. This mirrors the prior report released from the 2012 assessment conducted. However, FW 53 now proposes a 50% reduction in the allowable catch due to the rebuilding timeline established for this stock.

Amendment 16 adopted 7 year rebuilding plans for GB winter flounder, witch flounder, pollock and northern windowpane flounder. These rebuilding plans were each set at 3 years less than the ten year statutory maximum partially under the theory that leaving a 3-year buffer would provide the Council the option to extend the rebuilding plan up to the full ten years if at some point it seems prudent to do so.

NSC provided extensive comments to the Agency on January 20, 2010 under the proposed rule for Amendment 16 pertaining to the 7 year rebuilding plans. Under our comments we highlighted that the Amendment 16 did not specify when the evaluations of the rebuilding trajectories and decisions to revise the rebuilding timeframes would be made during the 7 year period. NSC noted that such an evaluation should not be left until the very end of the 7 year period and we commented that it made no sense to cripple an entire fishery in order to rebuild one stock in 7 years when rebuilding that stock in 10 years avoids that result and still meets the MSA requirements.

The groundfish fishery doesn't deserve to have 50% ACL reductions chasing rebuilding trajectories that are unnecessarily steeper than the law truly requires. The risks of being wrong on projections are not really risks of stock collapse beyond recovery; the only real biological "risks" are how fast we achieve the highly uncertain Bmsy targets. Bmsy targets are as much economic as they are biological. Therefore, rebuilding plans should be considering the economic implications of incorrectly projecting stock productivity rates that do not play out in reality. Reducing the GB winter flounder ACL by 50% under FW 53 is a prime example of how management and scientific weakness are causing harm to the fishery without commensurate biological necessity.

Gulf of Maine Cod Catch Limit:

As a stakeholder who has been intimately involved in the prior GOM cod benchmark assessments, all of the groundfish committee and Council meetings as well as PDT, SSC and peer review meetings involving the recent "test" assessment and the development of FW 53, NSC is well positioned to offer informed responses to issues raised by the agency in the proposed rule.

Throughout the FW 53 Proposed Rule the Agency refers to the 386 mt ABC as a departure from an F rebuild approach. In at least one instance the Agency alludes to the SSC as having deference through NS1 to depart from established control rules.

See Page 19 of the Proposed Rule, last two sentences of paragraph 1: *"Furthermore, although the proposed ABC is not based on a F rebuild approach, the FMP and National Standard 1 give deference to the SSC to recommend ABC's that are departures from the established control rules. In such situations, the SSC must use the best scientific information available and provide ample justification on why the control rule is not the best approach for the particular circumstances."*

See Page 21 of the Proposed Rule, last sentence first paragraph: *"We are requesting specific comment on how the propose ABC would likely affect stock rebuilding particularly compared to an ABC based on an F rebuild approach."*

These statements do not reflect our understanding with regards to the setting of the 386 mt ABC. The following statements reflect NSC’s perspectives.

1. The MSA does not preclude managers from altering the rebuilding F stream (series of F rebuild values from start to finish of a rebuilding plan). This discussion took place during the Council proceedings and NSC was instrumental in bringing this to the Council’s attention.
2. The control rules do not limit F rebuild to be a static numerical rate throughout the rebuilding plan nor does NS1 or MSA.
3. F rebuild is only constrained by the control rule when it exceeds 75% Fmsy. The SSC was not asked to exceed the control rule nor did they depart from the control rule in setting the ABC at 386 mt.
4. There were several plausible values for catch at OFL / ABC that were put before the SSC. The 386 mt accounted for uncertainty in two ways. It blended values from several model scenarios which allowed them to average down the higher value. They then set the ABC based on 75% Fmsy.
5. The Agency explicitly alludes to a departure from F rebuild as what has occurred in FW 53. NSC disagrees with that assertion. Instead, it has been our understanding that it was implicit in the decision by the Council to set catch of 386 mt for 2015, 2016 and 2017, that the PDT would update the F stream for rebuilding F values to reflect the selection of three year ACL catches.

The F rebuild rates are shown in the “F full” columns (See table inserted)

Harvest strategy	Year	Input	M=0.2 model			M-ramp model					
			No retro adjustment			M=0.2			M=0.4		
			Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}
constant catch 386	2013	Model result	1,715	2,063	1.33	1,715	2,432	1.24	1,715	2,432	1.24
	2014	Assumed catch	1,470	2,690	0.80	1,470	3,009	0.76	1,470	2,832	0.85
	2015	catch	386	3,388	0.13	386	4,079	0.11	386	3,073	0.16
	2016	catch	386	4,829	0.09	386	6,303	0.07	386	3,861	0.13
	2017	catch	386	6,856	0.07	386	9,449	0.05	386	4,806	0.10
	2018	Frebuild	524	10,000	0.06	726	14,178	0.06	0	6,117	0.00
	2019	Frebuild	760	14,523	0.06	1,065	20,908	0.06	0	7,999	0.00
	2020	Frebuild	1111	20,839	0.06	1,592	30,400	0.06	0	10,466	0.00
	2021	Frebuild	1468	26,800	0.06	2,136	39,533	0.06	0	12,955	0.00
	2022	Frebuild	1862	33,381	0.06	2,767	49,914	0.06	0	16,121	0.00
	2023	Frebuild	2283	40,534	0.06	3,372	59,898	0.06	0	19,469	0.00
	2024	Frebuild	2684	47,287	0.06	3,952	69,859	0.06	0	22,597	0.00

6. Setting constant catch for 3 years and recalculating rebuilding F to reflect the constant catches is a common practice. Most recently the PDT essentially did this in their recommendation for an ABC of 200 mt for three years.

(See table inserted)

Harvest strategy	Year	Input	M=0.2 model			M-ramp model					
			No retro adjustment			M=0.2			M=0.4		
			Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}	Catch (mt)	Spawning stock biomass (mt)	F _{full}
constant catch 200	2013	Model result	1,715	2,063	1.33	1,715	2,432	1.24	1,715	2,432	1.24
	2014	Assumed catch	1,470	2,690	0.80	1,470	3,009	0.76	1,470	2,832	0.85
	2015	catch	200	3,425	0.07	200	4,115	0.06	200	3,111	0.08
	2016	catch	200	5,039	0.04	200	6,513	0.04	200	4,047	0.06
	2017	catch	200	7,260	0.03	200	9,851	0.02	200	5,128	0.05
	2018	Frebuild	559	10,597	0.06	761	14,784	0.06	0	6,548	0.00
	2019	Frebuild	799	15,242	0.06	1,105	21,663	0.06	0	8,491	0.00
	2020	Frebuild	1164	21,799	0.06	1,644	31,347	0.06	0	11,115	0.00
	2021	Frebuild	1523	27,763	0.06	2,191	40,474	0.06	0	13,716	0.00
	2022	Frebuild	1918	34,314	0.06	2,820	50,862	0.06	0	16,948	0.00
	2023	Frebuild	2333	41,337	0.06	3,418	60,662	0.06	0	20,252	0.00
	2024	Frebuild	2728	48,059	0.06	3,992	70,543	0.06	0	23,292	0.00

7. In essence, whenever a short term constant catch strategy is implemented for a stock that is already within a rebuilding plan the catch for those years is used to calculate F rebuild for the years of constant catch which means the F rebuild rate will most likely be different in each of the years of constant catch. In the case of FW 53 the catch of 386 mt results in an F rebuild rate that is higher than the old, static F rebuild rate in 2015 and 2016 and lower than the old F rebuild rate in 2017. But all F rebuilds are equal to or lower than 75% Fmsy. For this reason, there has been no departure from the control rules.

The precedent for having PDT and SSC recommendations for setting ABC at constant catch for three years is extensive. In fact, it has become quite common for the NE Multi-species ABC / ACL settings during biennial adjustments to have catch advice set at a constant level for 3 years. Each time this is done the rebuilding F stream table for each stock in a rebuilding plan is altered to reflect the varying F rebuilds resulting from the constant catches in each year. You can't have both figures constant. Either you set F constant and catches are annually variable or you can set constant catch and F rebuilds are variable during the constant catch years and back to an adjusted static rate to complete the rebuilding schedule.

NSC strongly contends that the 386 mt for three years is as much an F rebuild approach as the 200 mt PDT recommendation because both scenarios required alteration of the rebuilding F rates contained in the initial rebuilding plan and the resulting F calculations become the new F rebuild values. There has been no departure from the control rules because none of the F rebuild values exceed 75% Fmsy.

Additionally, the recommendation set forth by the SSC (514 OFL and 386 ABC) and rationale for their recommended approach are clearly cited in the SSC Memorandum to the Council dated November 4, 2015. Highlights from this report include the following:

- Prospects for rebuilding Gulf of Maine cod in a 10 year time frame are limited at best.
- Projections assuming M=0.4 (but using M=0.2 reference points) suggest that rebuilding is impossible.
- *Under M=0.2, rebuilding may be possible, but as the PDT's analysis highlights, this would require favorable environmental conditions and sustained growth of 37-40% per year.*
- SSB still projected to increase, so an ABC of 386 mt would not compromise the ability of the stock to rebuild.
- The ABC and OFL values are held constant for years 2015-2017 in recognition of the difficulties

making projections at low population sizes and the update assessment scheduled for 2015.

This ABC may marginally mitigate the economic impacts associated with the GOM cod catch reduction which are projected to be severe and disproportionately distributed among the groundfish fleet. As cited in proposed rule and the supplemental Economic Impacts of the Proposed Measures document, “the largest revenue reductions are expected for vessels less than 50 feet and those fishing from Gloucester, MA and New Hampshire ports.” The ABC of 386 mt also takes into consideration information provided by groundfish sectors at the request of the SSC for estimates of incidental, non-target catch of GOM cod based on prevailing operating conditions of the fishery.

In response to the Agency’s comment on page 22 of the proposed rule, first sentence second paragraph: *“Due to the low catch limit proposed for GOM cod, we have some concerns regarding the apportionment of catch and the incentive to misreport catch on unobserved trips”*, NSC submits that this was primary reason the SSC requested that the PDT collaborate with the industry to get information to understand what level of catch may be needed to keep the fishery open without directed cod fishing. The groundfish sectors produced reports for the PDT and SSC that included methodology and honest estimates based upon recent fishing data. The groundfish sub-ACL from a 386 mt ABC will be approximately 200 mt. Although the sector estimate indicated a higher ABC would have been needed to cover incidental catches (between 500 to 600 mt), the shortfall was far smaller than what would have occurred under the PDT recommendation of 200 mt total ABC.

Fishermen in this fishery have had to learn to avoid fish that the assessments claim do not exist and it is getting worse instead of better. More time, fuel, effort and expertise is expended now to avoid fish than catch it which is a serious problem now fishery wide. The gap between scientifically assessed stock status and what is seen on the water by our members has widened exponentially in recent years. NSC hopes this problem can be resolved.

NSC would also point to the very robust data reconciliation process that occurs continuously throughout the year that utilizes various datasets such as dealer, VTR, VMS vessel tracks and declarations to insure accurate apportionment of catch.

Lastly, although the proposed rule is silent on this important fact, NSC feels it is essential to point out that the ABC of 386 mt was calculated based on an assumed GOM cod catch of 1,470 mt in fishing year 2014. In reality, the projected catch will be much lower due to the GOM cod Interim Measures implemented by the Agency and the 30 mt of unused GOM cod ACE associated with the sector exemption request.

Gulf of Maine Cod Protection Measures:

The NSC supports the GOM cod protection measures as proposed under FW 53. These measures, as developed and recommended by the Council, provide additional protection and rebuilding opportunities for GOM cod while biomass for this stock is reportedly at low levels. The areas and seasonal closures included under these measures are based on cod spawning, aggregation and effort data as supplied to the Council for this action. These measures are additive to the catch limit being proposed under Framework 53 with the goal to end overfishing and rebuild GOM cod. As presently written, they are subject to review by the Council once the biomass reaches a minimum threshold, 50% of SSBmsy.

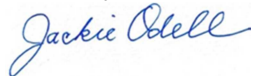
The protection measures proposed offer greater year round protection for GOM cod than the existing rolling closures. As noted by the proposed rule, the winter and spring closures would protect an

additional 35% of the winter spawning biomass and only 8% less of the spring biomass. Since there is limited information presently available to identify where actual spawning activity occurs, NSC believes it is prudent to be precautionary while the stock ABC is at such a low level and to use the interim period to advance and improve knowledge relative to actual spawning activity.

Furthermore, these measures are intended to be focused on GOM cod protection while providing opportunities for the catch of other allocated groundfish stocks. For instance, the closures will allow the inshore fleet the opportunity to target other stocks such as GOM haddock during seasons and areas where this stock is available. The protection measures as currently proposed are the only regulatory measures under consideration by the Agency which may help to offset the economic hardships to be imposed on the inshore fleet operating in the Gulf of Maine from the GOM cod ACL reductions.

NSC appreciates the opportunity to comment on this important regulatory action.

Sincerely,

A handwritten signature in blue ink that reads "Jackie Odell". The signature is written in a cursive, flowing style.

Jackie Odell
Executive Director