



November 9, 2016

Dr. John Quinn, Chairman
New England Fishery Management Council
50 Water Street Mill 2
Newburyport, MA 01950

Dear John,

NSC submits this letter to communicate our reasoning behind support for the removal of fishing year 2014 from any baseline period chosen to establish a GOM / GB ("Northern") windowpane flounder sub-ACL allocation for the scallop fishery.

NSC acknowledges that there are numerous factors that affect the performance of a fishery. Regulatory factors that are driven by the respective scallop or groundfish FMP's for the purpose of regulating the catch of target species for each fishery is one major factor that will indirectly cause a change in the catch of a non-directed (non-commercially harvested) stock such as windowpane flounder.

For scallops, the rotational access management program, designed almost exclusively for the purpose of managing the scallop resource and to maximize the optimum economic and biological yield, invariably results in significant swings in the level of interaction with non-target stocks inter-annually. Changes in DAS allocations, twine top size and other input controls also have had an effect on the level of interaction with Northern windowpane flounder by the scallop fishery.

But these regulatory impacts are not unique to the scallop fishery. For groundfish, there have been countless changes in regulations that have caused changes in the level of interaction with Northern windowpane flounder. But just like scallops, **these changes in interaction have been indirect and coincidental to scallop and groundfish management.** Perhaps the most significant change in the groundfish fishery that has caused coincidental yet enormous change in groundfish fleet interaction with Northern windowpane is the reduction in the fleet. It should be noted that the reduction in the fleet that historically fished on the portions of the bank where windowpane are most prevalent was abrupt and catastrophic beginning in 2010 for vessels homeporting from New Bedford and other Southern New England ports. The loss of these vessels from the fishery dramatically altered groundfish interaction with Northern windowpane.

NSC recognizes that all of these indirect and coincidental impacts on the level of interaction with Northern windowpane that occurred for both the groundfish and scallop fisheries are smoothed into the historical baseline periods currently being considered by the Council under Framework Adjustment 56 measures. We accept this because historical baselines are always governed by highly variable periods of regulations.

What is distinctly different about the 2014 fishing year is that this year does not fall into the category of indirect or coincidental changes to the groundfish fleet interaction with Northern windowpane. This is because ONLY the groundfish fleet was DIRECTLY constrained by a Northern Windowpane accountability measure. More importantly, the groundfish industry was the only stakeholder held accountable to the overall ACL that both scallops and groundfish historically utilize. The Northern windowpane

1 Blackburn Center, 2nd Floor
Gloucester, MA 01930

Tel: (978) 283-9992 / northeastseafoodcoalition.org

accountability measure was the larger of two areas due to the amount of the overage from 2012 which was due in part to significant catches in scallop fishery.

NSC contends that this is an area where the Council should consider adopting a policy that explicitly acknowledges the distinct differences between coincidental changes in interactions with stocks resulting from management of the directed fishery and those that are directly the result of accountability measures from the very stock being discussed for historical baseline alternatives. For those fisheries that have a sub-ACL and an AM this is not an issue. But when historical baselines are considered for future allocation of sub-ACL's there should be a clear distinction between the performance of an accountable sub-component with a sub-ACL and components that were unaccountable and not subjected to regulation specific to the stock in question.

This is precisely the case for the 2014 fishing year where one fleet was paying the price of the accountability measure and intentionally constrained from catching Northern windowpane while the other fleet was unconstrained and had zero accountability even if the overall ACL was exceeded.

To conclude, the 2014 fishing year should not be used to determine comparative or proportional catches between the two fisheries.

Sincerely,

Vito Giacalone, Policy Advisor

Cc: John Bullard, Regional Director, GARFO