



July 25, 2013

John K. Bullard
Regional Administrator, National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 10930

Re: Comments on the Proposed Rule to allow northeast multispecies sector vessels access to year-round closed areas [Docket No. 130319263-3577-01, RIN 0648-BD09]

Dear John,

The Northeast Seafood Coalition (NSC) provides policy representation for each of the individual fishermen and entities enrolled in the Northeast Fishery Sectors (NEF Sectors). Collectively, these fishing businesses and many essential shore side businesses encompass our membership.

NSC along with the Northeast Sector Service Network (NESSN) whose membership consists of the Northeast Fishery Sector entities, submitted comments to the Proposed Rule for the 2013 Sector Operations Plans and Contracts. Many of the statements below reflect the comments submitted on March 29, 2013.

In summary, NSC largely disagrees with the Agency's recommendation to place conditions by which exemptions will or will not be allowed for access to the mortality portions of the existing year round closures in 2013. Many of the conditions recommended by the Agency in this proposed rule were not put forth by the New England Fishery Management Council (Council) and were strongly advised otherwise by industry groups that truly understand the fragility of the fishing industry and need to develop real options to mitigate the reductions in the 2013 Annual Catch Limits (ACLs).

Furthermore, NSC is confused by the reluctance of the Agency to embrace the fact that the fishery is now controlled and managed under a hard total allowable catch. While operating under a hard total allowable catch since 2010, there has often been reluctance to change measures that were implemented under the old effort controlled management regime. NSC continues to witness the process looking back rather than forward under the new catch-share system, a program which was endorsed by the Agency. NSC, NESSN, NEF Sectors and other industry groups have commented repeatedly over this reality. Sectors are constrained by the ACE allocated to them.

Remember these allowable catches are based upon the science which has been deemed best available by the Agency. If the Agency had faith in its science then why would it recommend placing constraints upon Sectors who wish to utilize the sector exemptions to effectively harvest the ACE allocated to them?

Proposed Areas for Exemptions:

NSC supports the area defined in the proposed rule as “Closed Area I, Closed Area II and Nantucket Lightship Exemption Areas” because it is consistent with the recommendations of the Council by restricting any exemptions for 2013 to “mortality only” portions of existing year round closures.

The NSC has consistently supported reopening areas that had been previously closed as mortality - effort controls. Although this proposed action attempts to do just that, the conditions proposed effectively negate most if not all of the potential for economic benefit that may have been realized if not for these conditions. As noted, neither the Council nor the industry has ever proposed or supported these conditions. In fact, to the contrary, the most onerous of the conditions, 100% industry funded ASM, has been explicitly rejected by the Council and the industry both in public meetings of the New England Fishery Management Council and in detailed written public comments to proposed regulatory actions. Many analyses such as break even analyses done by the Massachusetts Division of Marine Fisheries Service and the PDT have shown the fragility of the fleet and thus inability to cover such additional costs.

Condition Proposed to Require 100% Industry Funded At Sea Monitoring for Exemption Areas:

Reiterating NSC, NESSN and NEF Sector comments during the deadline for the 2013 Sector Operations Plans and Contracts as well as every other opportunity to provide comment throughout this process, NSC strongly opposes the Agency’s condition to place 100% industry funded at sea monitoring (ASM) requirement in order to access the groundfish mortality closures.

As noted above, this one condition alone completely reverses what was potentially a mitigating measure for the current fishery disaster and turns it into a net negative for fishing businesses that are currently struggling to meet expenses. As concluded in numerous economic analysis, industry funded monitoring has already been deemed financially infeasible in this fishery at this time. For the Agency to require 100% industry funded monitoring, the Agency must be 100% certain that there will be sufficient presence of haddock, pollock and other target species in those areas and available at sufficient catch per unit of effort to justify the enormous added expense. NSC questions the existence of data to support such an assumption. The proposed rule assigns a “known” and quantifiable fixed cost to struggling fishing businesses on purely speculative economic benefits assumptions. This is a trade-off that industry must reject at face value and NSC emphatically rejects the Agency’s 100% industry funded ASM requirement in this proposed rule.

NSC points to the Agency’s lack of credible scientific justification for drawing such a stark distinction between areas / substrates that exist in the areas currently open and the areas

closed since 1994. The mortality closure areas have never been identified as habitat closed areas either in the past or proposed as alternatives in the Omnibus Amendment. They are commonly known and understood to be mortality closures - only. Fishermen know, definitively, that these areas, once fished by groundfish fishermen for centuries up until 1994, are not unique in any way from the open areas that are contiguous to the CA1, CA2 and NLSCA Exemption Areas defined in this proposed rule.

NSC notes and the proposed rule acknowledges that these exemption areas have been accessed by scallop dredging as part of rotational access programs, lobster trawls and mid-water trawling throughout the “closure” period. In fact, the only fishery closed from these areas has been the commercial groundfish fishery.

Condition Proposed for Time / Seasonality Restrictions for Exemption Areas:

The regulations already preclude access to Closed Area I and Closed Area II for the period February 16th through April 30th. (50 CFR § 648.87 Sector allocation (i) *Regulations that may not be exempted for sector participants.* ; Closed Area I and Closed Area II, as defined at § 648.81(a) and (b), respectively, during the period February 16 through April 30)

NSC does not support the Agency’s proposal to restrict exemption requests to December 31st. NSC questions why the Agency unilaterally chose to override the February 15th through April 30th historical spawning closures on Georges Bank. Without conclusive scientific analysis or citing, they chose not to use the Feb 15th date and instead proposed December 31st “to avoid impacts to spawning stocks of Georges Bank cod”.

NSC strongly advises the Agency to adopt the seasonal restrictions specified by the Council for Closed Area I, until February 15th.

Impacts to the Offshore Lobster Industry and Sector Trawl Vessel Rotational Agreement in Closed Area II Exemption Area:

NSC strongly advises the Agency to revise the seasonal restrictions modified under this proposed rule. NSC strongly supports the seasonal restriction as supported by the Council and the industry agreement which was carefully vetted and agreed upon by the fishing industry. The Sector trawl fishery should have access from November 1st through February 15th.

The NSC worked closely with representatives of the offshore lobster industry and other fishing organizations to draft a mutually beneficial agreement in order to maximize fishing opportunities for both industries in Closed Area II and minimize gear conflicts. The agreement was based upon the lobster industry receiving access from June 15th through October 31st and Sector trawl receiving access from November 1st through June 15th with Sector trawl interests understanding that the February 16th through April 30th CA I and CA II regulations would still be applicable.

NSC does not support the Agency's proposal to modify the timing associated with this agreement. Essentially, the Agency's proposal only gives the trawl fleet three months out of the entire fishing year to fish in the central portion of Closed Area II. This is not acceptable.

NSC strongly recommends the Agency adopt the timing as supported by the agreement which was carefully vetted and agreed upon by the fishing industry.

Nantucket Lightship Closed Area Exemption:

NSC supports the proposal to require pingers on gillnet gear when fishing in the Nantucket Lightship Closed Area – Western Exemption Area between December 1 and May 31st.

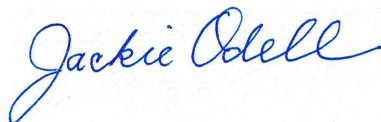
Cashes Ledge & portion of the Western Gulf of Maine Closure:

It is important the Agency realizes the mortality closures in the Gulf of Maine are hindering access to many stocks such as pollock. Even though the day-boat fleet fishing in the Gulf of Maine may receive indirect benefits from access provided to offshore areas, *there are still no direct measures mitigating the reductions in the 2013 ACLs for the inshore day-boat fleet.* If the Agency had worked collaboratively with the Sectors prior to this proposed rule there would have been a greater opportunity to resolve some of the issues now raised in this rule.

To conclude, NSC would like to remind the Agency that measures such as these, providing access to groundfish mortality closures, are a real - tangible opportunity to mitigate the ACL reductions in 2013. Most of the conditions recommended by NMFS in this proposed rule, such as gear and observer coverage, miss this critical opportunity to provide meaningful mitigation for Sectors and their members. The fleet is desperately seeking opportunities to maximize their allocations and increase their economic efficiency. Since essential fish habitat portions of the closed areas would remain closed, it would appear a balance between the needs of rebuilding fish stocks and supporting a fishing fleet could be achieved through this action.

NSC appreciates the opportunity to provide our comments on this important proposed rule.

Sincerely,



Jacqueline Odell
Executive Director

Cc: Elizabeth "Libby" Etrie, Northeast Sector Service Network