



October 27, 2014

Mr. John Bullard, Regional Administrator  
NOAA Fisheries Service, Northeast Regional Office  
55 Great Republic Drive,  
Gloucester, Massachusetts, 01930-2276

Dear Mr. Bullard:

On behalf of the Pew Charitable Trusts, Conservation Law Foundation, and Earthjustice, we are writing to offer our perspective on an appropriate Emergency Action to address the dire condition of Gulf of Maine cod.

We are alarmed about this stock, the implications for fishing in New England, and what the disappearance of this major predator means for the future of the Gulf of Maine ecosystem. The region is in serious trouble on all fronts and we indeed face an emergency that ramifies well beyond cod itself.

First and foremost, it is NOAA Fisheries' responsibility to end overfishing, based upon the most recent science. This must be done to comply with the law and to steward this resource for future generations. However, substantially more than a reduction in fishing mortality (i.e., to below the overfishing threshold) is needed to have any chance of reversing the death spiral of cod and the New England fisheries. The goal of turning around the decline of cod cannot be attained unless the Emergency Action includes:

- A much more complete picture of all of the fishery-induced mortality (e.g., discarding, mortality of fish that escape trawls and other gear, and fish caught without reporting).
- Enhanced habitat protection for all life stages.
- Measures to ensure abundant prey throughout time and space for all life stages.
- A plan to enhance the success of spawning aggregation throughout the year.
- Measures that will restore age structure to the population so that it once again includes an abundance of older fish that can effectively serve as broodstock for growing the population.

To achieve these objectives, we strongly recommend that NOAA Fisheries include the following measures in its Emergency Action:

1. Prohibit fishing without an observer: within the waters of the Gulf of Maine, no fishing with any gear capable of catching groundfish without an approved NOAA Fisheries observer on board.
2. Prohibit discarding of cod of any size for any reason: full retention of all cod.

3. Implement enhanced management for all habitat area. All gear capable of catching groundfish, or damaging groundfish habitat, must be excluded from the HMAs described below (#4 and #5), including all groundfish, scallop, and clam bottom trawls or dredges, mid-water trawls, gillnets, hook and line (recreational and commercial), and lobster pots.
4. Maintain *No Action* habitat management areas (HMAs).<sup>1</sup> The existing network of closed areas within the Gulf of Maine (presented as the *No Action* spatial management alternatives in the Omnibus Essential Fish Habitat Amendment 2 Draft Environmental Impact Statement (OHA2 DEIS) dated October 1, 2014) must be maintained with enhanced management.
5. Implement new spatial management areas in Eastern Maine. The two Eastern Maine HMAs that the Council identified as preferred for the OHA2 DEIS (Large Eastern Maine and Machias HMA) must be implemented immediately with enhanced management.
6. Implement new spawning closures. The Emergency Action should immediately implement new closures for any known spawning aggregation areas, and these must include ample margins in both space (area) and time (duration) to ensure successful spawning over a wide range of times bracketing peak spawning; existing spawning closures should be similarly modified to add increased spatial and temporal margins.
7. Evaluate the mortality of cod in the lobster fishery. NOAA Fisheries must initiate a program to rapidly acquire groundfish bycatch data for the lobster fishery so that speculation about cod bycatch will be replaced with reliable estimates in time for the next specifications (Framework Adjustment 53); the program should produce both reliable estimates of the catch and the mortality rate for released fish. This new information should be used in future assessments, catch specifications, and to inform management at the Council and Atlantic States Marine Fisheries Commission (ASMFC).
8. Deter illegal catch and sales of cod. The penalties associated with illegal fishing, landing or sales of cod must be increased such that they represent a significant deterrent to violating any of these or other regulations relating to the conservation of cod.

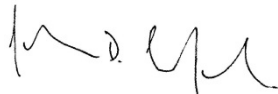
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<sup>1</sup> As explained in the Habitat DEIS, no action spatial management alternatives (HMA – Habitat Management Areas) include both the existing habitat closures and the closed areas generally referred to as groundfish closed areas: Omnibus Essential Fish Habitat Amendment 2 Volume 3: Spatial management alternatives - Environmental impacts of spatial management alternatives (October 1, 2014).

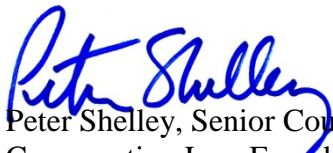
It is imperative that NOAA Fisheries not allow any management scenario within which incentives for discarding cod at sea, or illegal sales, are increased leading to management that operates blind to the true mortality of this beleaguered population. This will require robust at-sea monitoring, full retention, and vigorous enforcement. We urge NOAA Fisheries to work with the Council to ensure that measures put in place through this Emergency Action will be sustained through the implementation of the OHA2. The habitat amendment is the appropriate vehicle for addressing spawning and the other habitat issues discussed here for cod as it amends multiple fishery management plans (FMPs); additional amendments specific to the Northeast Multispecies FMP will also be necessary.

Thank you for carefully considering these perspectives.  
Sincerely,

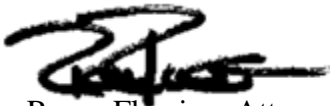
Sincerely,



John D. Crawford PhD  
The Pew Charitable Trusts



Peter Shelley, Senior Counsel  
Conservation Law Foundation



Roger Fleming, Attorney  
Earthjustice