

**Sector Operations Plan and Agreement for the
Maine Permit Banking Sector
December 1, 2011**

This Operations Plan and Agreement is entered into as of this 1st day of December, 2011 by and among the permit owners listed on the signature pages hereto and any other permit owners that are admitted pursuant to the terms of this Agreement. This Agreement is submitted in accordance with 50 CFR 648.87(b)(2) and is valid through Fishing Year (FY) 2012 (May 1, 2012 to April 30, 2013).

I: Background (Administrative Only)

The Maine State Department of Marine Resources (DMR) will act as the operating agent for the Maine Permit Banking Program (MPBP) as well as for the Maine Permit Banking Sector (MPBS). The State of Maine currently own permits and is in the process of acquiring permits, which will also be owned by the State of Maine. The Annual Catch Entitlement (ACE) contribution and/or day-at-sea (DAS) associated with those permits will be distributed to eligible vessels not more than 45 feet in length operating from a community with a population of no more than 30,000 residents. Eligibility will be determined subject to the requirements outlined in the Memorandum of Agreement (MOA) signed between NOAA Fisheries and DMR (Appendix 1). DMR will also require recipients of permit bank ACE and/or DAS to land their catch in Maine. All permit bank permits owned by the State of Maine are in Confirmation of Permit History Status (CPH). Because there will be no active fishing vessels within the MPBS, many of the required operations plan elements listed in 50 CFR 648.87(b)(2) are not applicable.

One of the MPBP goals is to “to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine”. By distributing fishing opportunities to numerous eligible vessels, it will decrease the risks and/or impacts of consolidation. The primary goal of the MPBP is to restore and preserve access to small rural communities throughout Maine. The MPBP will provide these opportunities to both sectors and common pool vessels.

In order for the MPBP to provide fishing opportunities to sector vessels, it must either place an entire permit within an eligible sector or must form a sector of its own. Forming a permit bank-specific sector, the MPBS, will provide for a more efficient and effective way of distributing fishing opportunities to sector vessels for the following reasons:

- Joining a sector with active fishing vessels would expose the State to joint and several liability issues, even though the State will not engage in any fishing activities. The State does not want to become jointly and severally liable with other sector vessels.

- By forming its own Sector, the State could transfer ACE and/or DAS to eligible sectors rather than being required to place an entire permit within a sector.

II: Disclosure / Confidentiality Concerns (Administrative Only)

The MPBS, operating under the State of Maine, will protect confidential data to the extent allowable under the laws of the State of Maine, including any data collected under Magnuson-Stevens Fisheries and Conservation Act authority. In addition, this Agreement includes the statement concerning the release of confidential data (see Section IX) as required.

III: Harvesting Rules

1.) Lease-Only Sector (Administrative Only)

The MPBS will operate as a lease-only sector with no active vessels in FY 2012.

2.) Rule of Three (Administrative Only)

The MPBS will have at least three members: the State of Maine and two northeast multispecies permits that are attached to vessels that will not actively fish in FY 2012. The State of Maine has agreed to the terms and conditions of the MOA, which prohibits MPBP permits from being held on active vessels. Permits owned by the State of Maine and held in the MPBS will be used for the transfer of ACE to eligible vessels in eligible sectors and/or the leasing of multispecies DAS to be used concurrently with a monkfish DAS while targeting monkfish. Permits that are not owned by the State of Maine are not required to abide by the MOA, except that those permit holders have agreed that they will not actively fish pursuant to those permits in FY 2012.

3.) Zero Groundfish Catch

Since the MPBS will be a lease-only sector and will not engage in active fishing in FY 2012 there will be zero groundfish caught while participating in other fisheries that have a bycatch of groundfish.

4.) Annual Catch Entitlement (as determined by NMFS; Administrative Only)

The MPBS requests an ACE for FY 2012 for those permits placed in the MPBS. The allocations associated with the two northeast multispecies permits not owned by the State of Maine will be transferred back to the originating sector (Port Clyde Community Groundfish Sector) at the start of FY 2012. The MPBS will provide to NMFS by February 1, 2012 (see exemption request #1), a list of all permits acquired through a competitive bidding process. The MPBS will not lease/transfer more than the Sector ACE, as adjusted by transfers, for any allocated groundfish stock.

5.) Quota Management (Administrative Only)

Sector permits will not be actively fished in FY 2012, as all ACE and DAS will be leased to other sectors/vessels outside of the MPBS. The MPBS will monitor its ACE and/or DAS transfers by means of a software system that tracks ACE and DAS transfers and the Sector Manager will report these transfers to NMFS in the weekly ACE Status Report.

6.) Days at Sea

Each permit held by the MPBS will be allocated DAS by the Regional Administrator (RA). The DAS associated with permits owned by the State of Maine may be leased to eligible vessels in eligible sectors to be used concurrently with a monkfish DAS while targeting monkfish. Any DAS associated with the additional two federal multispecies permit holders will be transferred back to the originating Port Clyde Community Sector at the beginning of FY 2012.

7.) Vessel Logbooks

No MPBS permits will be actively fished in FY 2012. All permits purchased by the DMR through the Request for Proposal (RFP) process will be placed in CPH Status; therefore Vessel Trip Reports (VTRs) will not be necessary for these permits. The two northeast multispecies permit holder members that are not actively fishing will comply with all applicable reporting requirements including submission of VTRs stating that they did not fish.

8.) Data Reconciliation (Administrative Only)

The MPBS will verify that ACE and/or DAS transfers are reconciled with the sectors that have participated with the Sector for consistency. If a discrepancy is detected, the Sector Manager will notify the other sector(s) and NMFS of the discrepancy.

9.) Data Management (Administrative Only)

The MPBS will monitor its ACE and DAS by means of a software system that tracks ACE and DAS transfers.

IV: Consolidation and Redistribution of ACE (Administrative Only)

As previously stated, one of the MPBP goals is to “to mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine”. By distributing fishing opportunities to numerous eligible vessels, through the MPBS, the MPBP will decrease the risks and/or impacts of consolidation. A more detailed description of potential consolidation will be provided in the final version of this operations plan once the State of Maine has completed its permit bidding process and a final roster is submitted to NMFS. Since the MPBS permits will not be actively fishing, there will be no redistribution of effort to other fisheries.

V: Sector Reporting

1.) Dockside and At-Sea Monitoring

The MPBS will be a lease-only sector and will not engage in active fishing. All dockside and at-sea monitoring requirements, including the requirement to identify an independent third-party monitoring provider, will be met by the sectors to which ACE and/or DAS are distributed.

2.) Weekly Reports

The Sector Manager will submit a Weekly ACE Status Report to NMFS, as required. The Sector will submit the required report using the format and procedures prescribed by NMFS. The Sector will continue to work with NMFS to improve the weekly reporting system and requirements.

2.1.) Reporting Thresholds That Trigger Daily Reporting: Because there will be no active fishing to catch groundfish, there is no threshold and no increased reporting frequency is required

3.) Sector Manager Detail Reports

Due to the lease-only nature of the MPBS with no active effort, this requirement is not applicable.

4.) Sector Manager Trip Issue Reports

Due to the lease-only nature of the MPBS with no active effort, this requirement is not applicable.

5.) Annual Report

Within sixty (60) days of the end of the fishing year the Sector Manager will submit an annual report to NMFS and the Council that summarizes ACE and DAS transfers and any other relevant information required to evaluate the performance of the Sector. The Sector will submit required reports using the format and procedure prescribed by NMFS.

6.) JIRA

The Sector will submit all data quality issues through the NMFS JIRA issue tracking application for research and correction.

VI: Proof of Sector Membership (Administrative Only)

For FY 2012, no permits in the MPBS will be held on active vessels. All MPBS ACE and DAS will be leased to other sectors. Therefore, no Letters of Authorization (LOA) will be issued.

VII: Sector Understanding and Acknowledgements

The State of Maine and all additional northeast multispecies permits owned by the State of Maine agree to abide by the terms and conditions of the MOA as well as all Federal regulations required to operate in FY 2012.

VIII: Sector Manager and Designated Agent for the Service of Process (Administrative Only)

The MPBS shall appoint a manager who will have the authority to manage the day-to-day business of the Sector and will submit all sector reports required by the NMFS. For FY 2012, Trisha A.C. De Graaf shall serve as the designated agent for service of process.

Trisha A.C. De Graaf
Maine Department of Marine Resources
21 SHS
Augusta, ME 04333-0021
(207) 624-6554

Backup contact who may act on behalf of the sector:

Terry Stockwell
Maine Department of Marine Resources
21 SHS
Augusta, ME 04333-0021
(207) 624-6562

IX: Release of Confidential Data (Administrative Only)

Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C §1881a(b)(1)(F), the undersigned hereby authorizes the release to the MPBS of information that is considered to be confidential or privileged by the Magnuson-Stevens Act or other federal law regarding the catch of various species of fish associated with the limited access northeast multispecies permit with the Moratorium Right Identifiers (MRIs) submitted to the NMFS in compliance with 50 CFR 648.7 and §648.87 that the undersigned has authority to access. This information includes data required to be submitted or collected by NMFS, including but not limited to DAS allocation and usage, vessel trip reports, dealer reports, northeast Fishery Observer Program data, catch and landings history data, Sector dockside and at-sea monitoring data, enforcement data, and all other information associated with the vessel, MRI #, and/or permit records.

X. Membership (Administrative Only)

1). Rule of Three Requirement

Amendment 16 to the NE multispecies FMP defines a sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the sector. This criterion has been fulfilled with permit #149638 under the distinct ownership of Gerald Cushman; permit # 150323 under the distinct ownership of Bryan Bichrest; and the 6 permits currently owned by the State of Maine as well as those to be purchased by the DMR through a second RFP process. The DMR enters into this agreement pursuant to its authority under 12 M.R.S. § 6051, which authorizes the Department to conduct programs for the development of commercial marine resources

of the State, including economic development, in cooperation with private organizations or persons.

2). Voluntary Membership

The two northeast multispecies permit holder members joining this sector acknowledge and affirm that they do so voluntarily and that, while a member of this sector, they will not engage in any fishing activity under their permit, identified above.

3). Scope of Membership Obligations

The obligations of the northeast multispecies permit holder members set for in this Agreement shall only apply to the permits enrolled in the Sector, and not extend to any other permits or vessels owned by the northeast multispecies permit holder member that are not enrolled in the Sector pursuant to the terms of this Agreement.

3.1). The northeast multispecies permit holder members shall not be considered employees or agents of the State.

3.2). Nothing in this agreement should be construed as a waiver by the State of Maine of its sovereign immunity.

3.3). The northeast multispecies permit holder members hereby agree to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description incurred under this Agreement (hereinafter referred to as "claims"), including but not limited to any claims resulting from or arising out of any violations associated with the use of their permits identified in section X.1 above.

3.4) The northeast multispecies permit holder members shall cooperate and use their best efforts to ensure Sector compliance with all applicable laws and rules.

3.5) The northeast multispecies permit holder members shall cooperate fully with any Sector inquiry, investigation, hearing or other proceeding to enforce the terms of this Agreement or to ensure compliance with applicable laws and rules.

3.6) The northeast multispecies permit holder members agree to authorize the Sector to obtain records from NMFS concerning the northeast multispecies permit holder member's fishing history and landings, and , but this Agreement, provide the Sector with the authorization for NMFS to record access as outline in Section IX.

4) Length of Commitment

The northeast multispecies permit holder members hereby agrees to cause each of its permits to remain enrolled in the Sector for the term of this Agreement (the "Commitment Period").

XI: Enforcement

Because the MPBS will operate as a lease-only sector, the development of an overage penalty schedule is not necessary.

Any sector member found in violation of the sector operations plan and/or sector regulations may be expelled from the sector. If a member commits a violation, DMR will determine the proper penalty, which could include a monetary fine or potential expulsion. Since the MPBS will not be providing NMFS with a weekly Sector Manager Detail Report or a Sector Manager Trip Issue Report, the MPBS will notify NMFS promptly after the occurrence of any enforcement issues via email or mail. The MPBS will also notify NMFS by email and mail if a member is expelled.

The MPBS acknowledges that, as explained in §648.87(b)(1)(iv), it is a legal entity and is therefore subject to NMFS enforcement action for violation of sector regulations.

XII: Sector Specific Exemptions

1.) Exemption from requirement to provide a sector roster by December 1, 2011.

The MPBP is currently in the process of purchasing permits additional through a state required RFP process. Due to the time needed to review proposals, negotiate contracts with potential bidders, work through Agreement issues such as "Rights of First Refusal", transfer permits to skiffs, transfer ownership of the permit to the State of Maine and other relevant details and processes, the State of Maine will not be able to meet this deadline. The MPBS requires an exemption from the December 1 requirement in order to be fully operational for FY 2012.

2.) Exemption from length and horsepower restrictions of the DAS Leasing Program.

This exemption was previously approved for sectors in FY 2010 and 2011. The MPBS will abide by the terms and conditions of the MOA, which establishes a vessel length requirement.

XIII. Non-Appropriation (Administrative Only)

Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to meet any financial obligations that it may have under this Agreement, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts for the purpose of this Agreement, then the State obligations under this Agreement shall be void.

XIV. Termination (Administrative Only)

This Agreement may be terminated by the State of Maine in whole, or in part, whenever for any reason the State shall determine that such termination is in its best interest.

Signature:

Trisha A.C. DeGraaf
Maine Department of Marine Resources

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

/s/ _____ print/ _____

Name/Co: _____

MRI #: _____

Permit #: _____

Exhibit A

Memorandum of Agreement (MOA) between NOAA and DMR

[See attached MOA file]

Exhibit B

Sector Membership Fishing Year 2012 (May 1, 2012 to April 30, 2013)

Cushman, Gerald

MRI: 268 (Enrolled in MPBS)

Vessel: Generation (Skiff) (Not Active)

Gear: NA

Other Federal Permit(s): Spiny Dogfish, Summer Flounder, Herring, Lobster Non-Trap, Lobster Trap, Monkfish, Red Crab, Scup, Loligo, Butterfish and Tilefish

State Permit(s): (ME) Lobster, Shrimp

Bichrest, Bryan

MRI: 2204 (Enrolled in MPBS)

Vessel: Haven Lyn (Skiff) (Not Active)

Gear: N/A

Other Federal Permit(s): Bluefish, Spiny Dogfish, Herring, Monkfish, Red Crab, Skate, Squid, Butterfish, Mackerel and Tilefish

State Permit(s): N/A

State of Maine

MRI: 1432

Permit: 148879

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Mackerel, Bluefish, Herring, Monkfish E, Red Crab, Skate, Spiny Dogfish and Tilefish.

State Permit(s): N/A

State of Maine

MRI: 132

Permit: 150689

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Lobster Trap, Black Sea Bass and Monkfish D.

State Permit(s): N/A

State of Maine

MRI: 156

Permit: 151202

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Lobster Trap, Mackerel, Bluefish, Monkfish D, Red Crab, Scallop – LAGC NGOM, Scup, Skate, Spiny Dogfish, Squid and Butterfish.

State Permit(s): N/A

State of Maine

MRI: 90

Permit: 151206

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Lobster Trap, Mackerel, Bluefish, Herring, Monkfish E, Red Crab, Skate, Spiny Dogfish, Squid, Butterfish and Tilefish.

State Permit(s): N/A

State of Maine

MRI: 377

Permit: 151212

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Lobster Non-Trap, Herring, Monkfish D, Scallop – LAGC - IFQ, Skate, Spiny Dogfish.

State Permit(s): N/A

State of Maine

MRI: 351

Permit: 151209

Vessel: CPH

Gear: N/A

Other Federal Permit(s): Bluefish, Herring, Monkfish E, Scallop – LAGC - NGOM, Ocean Quahog, Red Crab, Surf Clam, Skate, Spiny Dogfish.

State Permit(s): N/A

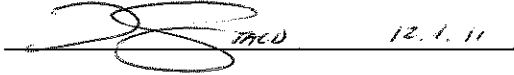
State of Maine

Additional permits to be purchased in RFP 201103047.

XIV. Termination (Administrative Only)

This Agreement may be terminated by the State of Maine in whole, or in part, whenever for any reason the State shall determine that such termination is in its best interest.

Signature:

A handwritten signature in black ink, consisting of several loops and a horizontal line. To the right of the signature, the initials "TACD" and the date "12.1.11" are written in a smaller, simpler hand.

Trisha A.C. DeGraaf
Maine Department of Marine Resources

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

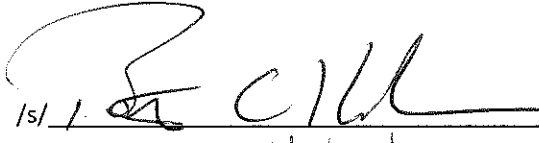
/s/  print/ Patrick C. Kelikaw - Acting Commissioner

Name/Co: DMR, State of Maine

MRI #: 351

Permit #: 151209

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

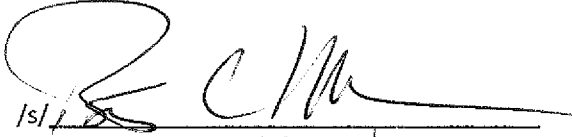
/s/  print/ Patrick C. Keliker - Acting Commissioner

Name/Co: DMR, State of Maine

MRI #: 311

Permit #: 191212

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

 print/ Patrick C. Keliker - Acting Commissioner

Name/Co: DMR, State of Maine

MRI #: 90

Permit #: 151206

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

/s/ 

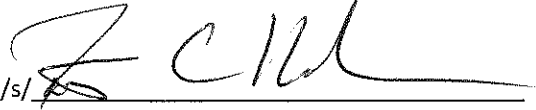
print/ Patrick C. Kehring - Acting Commissioner

Name/Co: DMR, State of Maine

MRI #: 156

Permit #: 151202

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

/s/ 

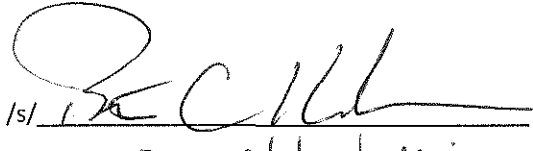
print/ Patrick C. Keliker - Acting Commissioner

Name/Co: DMR, State of Maine

MRI #: 132

Permit #: 150689

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

/s/  print/ Patrick C. Keliker - Acting Commissioner

Name/Co: DME, State of Maine

MRI #: 1432

Permit #: 140879

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

1st *Gerald Cushman*

print/ GERALD R CUSHMAN

Name/Co: BUG CATCHER INC

MRI #: 108

Permit #: 149638

In Witness whereof, the undersigned have enrolled the listed permits in the Maine Permit Bank Sector and execute this Agreement, known as the Maine Permit Bank Operations Plan and Agreement for the 2012-2013 fishing year, as of the date first written above, for the purpose of cooperating with the DMR in creating the Maine Permit Bank Sector.

/s/ Bryan Bichrest print/ Bryan Bichrest
Name/Co: Safe Haven Inc
MRI #: 2204
Permit #: 150323



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

CONFIRMATION OF PERMIT HISTORY (CPH)

Date Issued: March 29, 2011

History Owner: State of Maine

Vessel Name: F/V J-SIX

Permit Number: 148879

Doc/Reg Number: ME171ZK

This confirms that you have retained the above-named vessel's limited access fishing rights and fishing permit history in the **Northeast multispecies** fishery. Issuance of this CPH preserves the eligibility of this history owner to apply for limited access permits for a replacement vessel based on the vessel's fishing and permit history, subject to the replacement provisions.

This CPH will remain valid until the above vessel's fishing and permit history are used to qualify a vessel for a limited access permit.

Please retain this confirmation for your records. If you have questions concerning this confirmation, please call the Northeast Region information line at 978-281-9278.

Sincerely,

Patricia A. Kurkul
Regional Administrator





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

CONFIRMATION OF PERMIT HISTORY (CPH)

Date Issued: March 28, 2011

History Owner: Gerald R Cushman

Vessel Name: GENERATION

Permit Number: 149638

Doc/Reg Number: ME101KL

This confirms that you have retained the above-named vessel's limited access fishing rights and fishing permit history in the **Northeast (NE) multispecies, summer flounder, scup, Loligo/butterfish, and American lobster** fishery. Issuance of this CPH preserves the eligibility of this history owner to apply for limited access permits for a replacement vessel based on the vessel's fishing and permit history, subject to the replacement provisions.

This CPH will remain valid until the above vessel's fishing and permit history are used to qualify a vessel for a limited access permit.

Please retain this confirmation for your records. If you have questions concerning this confirmation, please call the Northeast Region information line at 978-281-9278.

Sincerely,

Patricia A. Kurkul
Regional Administrator



Northeast Federal Fishing Permit

Issued pursuant to: 16 U.S.C. 1801 et seq and 5101



United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Region
55 Great Republic Drive
Gloucester, MA 01930
Telephone: (978) 281-9370
DP

File Copy

NOAA form 88-156A

2011 Fishing Year Permit

BRYAN BICHREST
3 WINTHROP FARM ROAD
HARPSWELL, ME 04079

F/V HAVEN LYN
Northeast Federal Permit Number: 150323
Documentation/Registration Number: ME003RR
Principal Port/State: HARPSWELL, ME

Fisheries Permitted	<i>Date issued:</i> 03/17/11	Effective Date	Expiration Date
ATLANTIC MACKEREL - 2011		05/01/2011	04/30/2012
BLUEFISH - COMMERCIAL - 2011		05/01/2011	04/30/2012
HERRING - OPEN ACCESS - POSSESSION LIMIT - 2011		05/01/2011	04/30/2012
MONKFISH - INCIDENTAL CATEGORY E - 2011		05/01/2011	04/30/2012
NE MULTISPECIES - INDIVIDUAL DAS - 2011		05/01/2011	04/30/2012
RED CRAB - OPEN ACCESS - INCIDENTAL BYCATCH - 2011		03/18/2011	02/29/2012
SKATE - 2011		05/01/2011	04/30/2012
SPINY DOGFISH - COMMERCIAL - 2011		05/01/2011	04/30/2012
SQUID/BUTTERFISH - INCIDENTAL - 2011		05/01/2011	04/30/2012
TILEFISH - COMMERCIAL/INCIDENTAL - 2011		05/01/2011	04/30/2012

Maximum Trap Allocation (if applicable):

(see reverse side for trap allocation information)

This permit is not valid unless signed. Knowingly and willfully falsifying material facts on this form may result in criminal liability (18 U.S.C § 1001)

Authorized Signature

See reverse side for permit conditions and information

MEMORANDUM OF AGREEMENT

Between

**NOAA's National Marine Fisheries Service
U.S. Department of Commerce**

And

Maine Department of Marine Resources

For The

Administration of a Pilot Permit Bank Program

Revised November 2011



I. Parties to the Agreement

This document constitutes an agreement between the Northeast Regional Office (NERO) of NOAA's National Marine Fisheries Service (NMFS), U.S. Department of Commerce, and the Maine Department of Marine Resources (ME DMR).

NMFS is responsible for the management, conservation, and protection of living marine resources within the U.S. Exclusive Economic Zone. NMFS also plays a supportive and advisory role in the management of living marine resources in coastal areas under state jurisdiction, provides scientific and policy leadership in the international arena, and implements international conservation and management measures as appropriate.

The ME DMR was established to conserve and develop marine and estuarine resources; to conduct and sponsor scientific research; to promote and develop the Maine coastal fishing industries; to advise and cooperate with local, state, and Federal officials concerning activities in coastal waters; and to implement, administer, and enforce the laws and regulations necessary for these purposes.

See Attachment A for identification of contact representatives for each party.

II. References and Authorities

NMFS has programmatic authority to participate in this project pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Federal grant award to ME DMR for the purposes of establishing a permit bank is allocated under NOAA's Unallied Management Program, which is authorized under the Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.; National Fisheries Research and Development Program, 15 U.S.C. 713c-3(d); and the Department of Commerce Appropriation Act of 1999. Projects under this program provide economic, sociological, public policy, and other information needed by Federal and state natural resource administrators for conserving and managing fishery resources and protected species and their environment in Federal, state, and U.S. territorial waters.

ME DMR has authority to participate in this project pursuant to Title 12 of Maine Revised Statutes, section 6051, which states that DMR, under the direction of the Commissioner, may conduct or sponsor programs for research and development of commercial, marine recreational, and anadromous fishery resources and other marine resources of the State, which may include biological, chemical, technological, hydrological, processing, depuration, marketing, financial, economic, and promotional research and development. ME DMR may carry out these programs within the department, in cooperation with other state agencies, and Federal, regional, and local governmental entities, or with private institutions or persons.

III. Background

The Magnuson-Stevens Act establishes a regime for the management of fishery resources that occur in the U.S. Exclusive Economic Zone and establishes the New England Fishery Management Council (Council) as the body responsible for the development of fishery management plans for fisheries in the Atlantic Ocean seaward of the states of Connecticut through Maine.

The Council developed, and NMFS has implemented, Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP), which expands a catch-share program known as “sectors” for the Northeast multispecies fishery. Catch-share management programs, when designed correctly, may help to prevent overfishing, eliminate the race to fish, reduce overcapacity and bycatch, and improve economic efficiency. However, catch-share programs may also result in the consolidation of fishing effort, reduce community involvement in local fishing, decrease access by small-scale fishermen to local fishery resources, create barriers to entry into the fishery by increasing the demand for capital to participate, and create competition among fishermen for access rights.

The sector management program allows groups of Northeast multispecies permit holders to pool individual potential sector contributions (PSC) to share among the sector members while fishing under quotas limited by the sum of the members’ individual PSC. Northeast multispecies permit holders who do not join a sector would fish in the “common pool” under individual allocations of days-at-sea (DAS). With the implementation of Amendment 16, sectors may receive a transfer of additional annual catch entitlement (ACE) from other sectors to supplement the members’ contributions, and members of the common pool may lease additional DAS from other common pool members to supplement their individual allocations. Under Amendment 16, members of sectors may also lease additional DAS from other members of sectors (but not from common pool vessels) for the purpose of fishing for monkfish and/or skates.

IV. Purpose

Both the ME DMR and NMFS have an interest in promoting the effective implementation of catch-share programs in New England, while minimizing any potential adverse socio-economic impacts to rural fishing communities and small-scale fishing businesses that are sometimes attributed to catch-share programs. Permit banks may be useful to mitigate some of the adverse impacts associated with catch-share programs. Permit banks can be used to preserve fishing opportunities for small-scale fishermen operating in small, rural fishing ports that may otherwise be disproportionately negatively affected by the consolidation of fishing effort that often follows implementation of catch-share programs. Permit banks may help ease the transition to catch-share programs by:

- Providing options to fishermen with little access to capital;
- Helping fishermen to improve cooperation and operating efficiencies;

- Maintaining small-boat enterprises through the combination of a variety of permit attributes (e.g., DAS, PSC) to meet the needs of fishermen and fishing communities for access to fishery resources; and
- Helping fishing communities achieve stable access to local fishery resources for local fishermen.

NOAA is providing funding to the State of Maine, in the form of a Federal grant award to ME DMR, for the express purpose of establishing a bank of Northeast multispecies fishing vessel permits (Permit Bank). The Federal grant award is intended to facilitate a partnership between the ME DMR and NMFS for the establishment of a pilot permit bank program to inform the potential expansion of permit banking programs to other states and regions. ME DMR and NMFS intend for this Permit Bank to achieve the following objectives:

- To secure continued access to fishery resources for local, small-scale fishermen from small fishing communities throughout Maine;
- To create and protect sustainable local fisheries;
- To supplement existing access rights held by fishermen in small Maine communities; and
- To mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in Maine.

V. Definitions

Annual Catch Entitlement (ACE) means the amount (weight) of each stock that can be harvested by a sector that year. The ACE is derived as the share of the annual total allowable catch (TAC) for a stock that is allocated to a sector, calculated based on the landings history attached to each permit that joins a sector in a given year, multiplied by the available catch. The ACE may be adjusted, if necessary, due to prior overages and/or penalties.

Common Pool means the collection of vessels whose owners did not join a sector, and will fish under the constraints of the DAS system and any other regulations imposed for non-sector vessels.

Days-at-Sea (DAS) are the total days, including steaming time, that a boat spends at sea to fish. Amendment 13 to the Northeast Multispecies FMP categorized DAS for the multispecies fishery into three categories, based on each individual vessel's fishing history during fishing years 1996 through 2001. The three categories are: Category A, which can be used to target any groundfish stock; Category B, which can only be used to target healthy stocks; and Category C, which cannot be used until some point in the future. Category B DAS are further divided equally into Category B-regular and Category B-reserve.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance that provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

Potential sector contribution (PSC) means an individual fishing vessel permit's share (proportion) of the annual catch limit for each stock, based upon the fishing history associated with each permit.

Sector means a group of persons (three or more persons, none of whom have an ownership interest in the vessels owned or permits held by the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC in order to achieve objectives consistent with applicable FMP goals and objectives. For the purposes of this Agreement, a Sector is one of the qualifying groups identified in 50 CFR 648.87.

VI. Terms and Conditions

The special award conditions of the Federal grant award require ME DMR and NMFS to agree to a set of terms and conditions for the development, implementation, and operation of the Permit Bank. As such, the parties do hereby agree to the following terms and conditions:

1. That as per Federal regulations at 50 CFR 648.4(n), the NMFS Regional Administrator, Northeast Region, retains the authority to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the ME DMR using a Federal grant award for the purposes of this Permit Bank if ME DMR, in the use of said permit and/or the operation of this Permit Bank, violates, or deviates in any way from, the terms and conditions of this Agreement.
2. That upon dissolution of the Permit Bank or termination of this Agreement by either party, the NMFS Regional Administrator, Northeast Region, may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the ME DMR using a Federal grant award for the purposes of this Permit Bank.
3. That the ME DMR may not permanently transfer, sell, or otherwise provide or surrender any of the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE) to any individual, Sector, corporation, non-profit organization, or government entity other than NMFS.

4. That the fishing vessel permits obtained by the ME DMR for the purposes of the Permit Bank may not be held on active vessels, such that no fishing or other on-the-water activities may be engaged by any vessels to which these permits are assigned (e.g., the Permit Bank permits should be held in Confirmation of Permit History).
5. That, in addition to the specific terms and conditions described herein, ME DMR shall operate the Permit Bank such that all transactions regarding leases of DAS and/or transfers of ACE associated with the fishing vessel permits held by ME DMR for use in the Permit Bank fully comply with all applicable Federal regulations.
6. That the ME DMR shall operate the Permit Bank such that all fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award shall only be used for the following purposes: (a) Transfers of ACE to qualifying Sectors; (b) leasing of groundfish DAS to qualifying vessels in qualifying Sectors for the purpose of fishing for monkfish and/or skates; or (c) for fishing year 2010, leasing of DAS to qualifying vessels in the Common Pool, and beginning in fishing year 2011, leasing of DAS to qualifying vessels to be used only while engaged in cooperative research projects, in order to facilitate the completion of the on-the-water cooperative research activities (i.e., DAS leasing may not be used for compensation).
7. That the ME DMR shall prepare, and submit to NERO at least 30 days prior to any Permit Bank transactions, a proposal describing how ME DMR plans to allocate available DAS and/or ACE from the Permit Bank to fishing vessel owners and/or Sectors from among those applicants that qualify for access to said DAS and/or ACE according to the terms and conditions of this Agreement, as well as any additional terms and conditions imposed by ME DMR. Any changes to the allocation proposal must be made in writing and submitted to NERO prior to implementing the revised allocation plan.
8. That the ME DMR shall operate the Permit Bank such that no individual, Sector, corporation, non-profit organization, or government entity may be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE), unless that individual, Sector, corporation, non-profit organization, or government entity meets all of the following criteria:
 - a. Owns and materially participates in the operation of a fishing vessel permitted to fish in the Federal limited access Northeast multispecies fishery that is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the transaction application is submitted;
 - b. Has, for the current fishing year and at least the preceding 3 fishing years, no record of substantial Federal permit sanctions or major violations of any Federal fishing regulations; and
 - c. Agrees to and signs a contract with ME DMR agreeing to fish in a responsible and sustainable manner.

9. That the ME DMR shall operate the Permit Bank such that no fishing vessel shall be utilized to fish under DAS leased and/or ACE transferred from the Permit Bank in accordance with this Agreement unless that fishing vessel meets all of the following criteria:
 - a. Is permitted to participate in the Federal limited access Northeast multispecies fishery; and
 - b. Is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the lease application is submitted.
10. That the ME DMR shall operate the Permit Bank such that no Sector shall be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the ME DMR using funds from a Federal grant award for the purposes of the Permit Bank, unless that Sector is operated by a community, corporation, non-profit organization, or government entity based principally in Maine.
11. That the ME DMR shall obtain, from any qualifying Sector selected to receive ACE transferred from the Permit Bank, an agreement signed by the manager of said Sector identifying the specific fishing vessels enrolled in the Sector that are intended to utilize the transferred ACE, prescribing the amount of ACE, in pounds and by stock, to be assigned to each vessel.
12. That the ME DMR shall ensure that that sub-transfers of ACE and/or sub-leases of DAS initially provided to a qualifying fishing vessel or Sector do not occur, with the following exception: Sub-transfers of ACE by a Sector to another Sector may occur in the last 2 weeks of the fishing year for which the initial transaction was processed, or in the first 2 weeks of the subsequent fishing year.
13. That ME DMR may not use the Permit Bank, or any fishing vessel permits held by the Permit Bank, for the purpose of leasing in additional DAS and/or transferring in additional ACE, with the sole exception that ME DMR may trade ACE with other NOAA-sponsored, state-operated permit banks, provided:
 - a. That any transfer of ACE among NOAA-sponsored, state-operated permit banks is done to address a contingency wherein ACE of certain stocks allocated to a state based on the fishing vessel permits held by that state could be better utilized by qualifying fishing vessels participating in another state's permit bank; and
 - b. That the states involved in the trading of ACE among the NOAA-sponsored, state-operated permit banks notify the NMFS Permit Bank Contact Representative of any such transfers of ACE, including the amount of each transfer, by stock, identifying both the transferor state and recipient state.
14. That on or before April 1 of each Northeast multispecies fishing year (May 1-April 30), ME DMR shall submit to the NMFS contact representative (see Attachment A) a written declaration for each Federal fishing vessel permit subject to the terms and

conditions of this Agreement identifying whether the fishing access rights associated with that permit are to be used in the coming fishing year for either: (a) DAS leasing to Common Pool vessels; or (b) transferring ACE to qualified vessels in qualified Sectors (including the leasing of DAS to Sectors for the purpose of fishing for monkfish and/or skates). Such declaration shall be binding for the duration of the coming fishing year.

15. That if ME DMR, through either State or external funding, acquires additional fishing vessel permits to be used in the Permit Bank, that terms and conditions of this Agreement shall not apply to the operation of the Permit Bank for those additional permits only. However, if additional fishing vessel permits for the Permit Bank are acquired either wholly or in part with funds from a NOAA grant specifically for that purpose, then all the terms and conditions of this Agreement apply.
16. That changes to either party's contact representative (see Attachment A), or contact information for that representative, shall be made by written notification to each party within 30 days of the change.

VII. Period of Performance

This Agreement shall be effective on the date it is signed by all parties and shall be automatically renewed every 3 years on the first of May of the third year, unless one of the parties terminates the agreement, in writing, prior to the first of January of any year. Furthermore, the Agreement may be terminated in writing at any time by the State or NMFS upon 90 days advance notice.

VIII. Funding, Payments, and Program Revenue

There will be no exchange of funds between the parties unless otherwise agreed in a separate agreement. Each party shall arrange for appropriate funding necessary to discharge its respective responsibilities under this agreement.

The ability of the parties to carry out their responsibilities under this Agreement is subject to their respective funding procedures and the availability of appropriated funds. Should either party encounter budgetary problems in the course of its respective internal procedures that may affect the activities to be carried out under this Agreement, that party will notify and consult with the other party within 45 days.

All revenue generated through the operation of the Permit Bank, either through the leasing of DAS or transferring of ACE, or through other means, shall be considered as program income, as defined in Department of Commerce regulations at 15 CFR 24.25, and shall be retained by ME DMR and used to offset costs incurred by ME DMR in the operation and administration of the Permit Bank program or used for the purposes and under the conditions of the original grant agreement, consistent with the terms of Department of Commerce regulations at 15 CFR 24.25, with one exception. In addition to using program income to offset its own costs incurred in the operation and administration of the Permit Bank program, ME DMR may also disburse program

income to qualifying groundfish sectors in order to defray costs incurred by the Sector in the operation and administration of the Northeast groundfish sector management program, provided the following criteria and limitations are met:

- a. ME DMR may only disburse program income to approved groundfish sectors based in, and whose members operate principally in, Maine;
- b. In each fishing year, prior to disbursing any program income funds to a Sector, ME DMR provides the following information to the NMFS contact representative:
 - 1) A detailed accounting of all program income ME DMR expects to generate during the fishing year, including the source and amount of all revenues to be generated through the operation of the Permit Bank program;
 - 2) A detailed accounting of all costs ME DMR expects to incur during the fishing year in the operation and administration of the Permit Bank program; and
 - 3) The proposed allocation of available program income to be disbursed among qualifying sectors, including the specific amount to be provided to each Sector, and a rationale for the proposed allocation.
- c. At the end of each fishing year, ME DMR provides, as part of the Performance Report required under section IX, a detailed report accounting for the sources and amounts of all program income generated, and explaining how all program income was used, including the amounts disbursed to each Sector.

IX. Performance Reports

ME DMR shall prepare, and submit to the NMFS contact representative, annual reports documenting the performance of the Permit Bank. Such reports shall be due to NMFS on June 1 of each year following the calendar year in which this Agreement first becomes effective, and shall include, at a minimum, the following information:

- a. For each Permit Bank transaction in the preceding fishing year:
 - 1) The Federal permit number of the permit held by the Permit Bank and whether the fishing access rights associated with the permit were used for (1) DAS leasing or (2) ACE transfers;
 - 2) The number of DAS leased or amount of ACE transferred (by stock);
 - 3) The Federal fishing vessel permit number(s) of the fishing vessel(s) that received either the DAS lease or the ACE transfer associated with the subject Permit Bank permit(s);

- 4) For ACE transfers or DAS leases to a Sector, the name of the Sector and a copy of the agreement with that Sector (see item 11 under section VI);
 - 5) The price paid, if any, by the recipient of the transaction (by DAS or, for ACE, by stock);
 - 6) The effective date of the transaction.
- b. Summary information for the preceding fishing year, including:
- 1) The total number of transactions;
 - 2) The total number of DAS leased;
 - 3) The total amount of ACE transferred, by stock;
 - 4) The number of unique vessels receiving the transactions;
 - 5) The total program income generated by ME DMR from the DAS leases and ACE transfers; and
 - 6) Total costs incurred by ME DMR associated with the operation and administration of the Permit Bank, delineated by type (personnel, documentation, travel, facilities, etc.).
- c. An evaluation of the impact of the Permit Bank program, including:
- 1) The degree to which the operation of the Permit Bank achieved the purposes and objectives of the Permit Bank identified in section IV above;
 - 2) Issues, concerns, or problems related to the operation of the Permit Bank; and
 - 3) Suggestions/recommendations to improve the operation of Permit Bank to more fully achieve the purposes and objectives.

X. Enforcement

During the performance of the NOAA grant to the State of Maine, the NOAA Grants Officer, in consultation with the NERO, shall be authorized to take appropriate actions if ME DMR, as grant recipient, fails to meet its obligations under the terms and conditions of the grant award. Such actions include all those stipulated at 15 CFR 24.43, and include, by extension, those actions stipulated at 50 CFR 648.4(n).

Upon closeout of the grant award, as determined by the NOAA Grants Officer, the Regional Administrator, Northeast Region, NMFS, shall have the authority to take whatever action under 50 CFR 648.4(n) that she deems appropriate for the remaining period of effectiveness of this Agreement, including all subsequent amendments and revisions thereto.

XI. Amendments and Review

This Agreement may be amended in writing at any time by agreement of the parties. All necessary changes will be accomplished in writing, either by an amendment to this Agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties. At a minimum, both parties shall review and consult on the terms and conditions of this Agreement once every 3 years.

XII. Other Provisions

This Agreement shall be construed to be consistent with the Magnuson-Stevens Act and other applicable Federal laws and regulations promulgated thereunder.

Nothing herein is intended to conflict with current U.S. Department of Commerce, NOAA/NMFS, or ME DMR directives. If the terms of this Agreement are inconsistent with existing directives of either of the agencies entering into this Agreement, then those portions of this Agreement that are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. Should such an inconsistency be identified, the parties shall, at the first opportunity, amend this Agreement consistent with section XI above.

Should disagreements arise on the interpretation of the provisions of this Agreement, or any amendment and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within 30 days of the latest presentation of a party's position, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

The terms and conditions described in this Agreement regarding the operation of the Permit Bank, particularly as to the qualifying criteria of individual fishing vessels, vessel owners, and Sectors for access to the DAS and/or ACE held by the Permit Bank, are intended to serve as minimum criteria. ME DMR may decide to impose more restrictive criteria, or additional requirements, on potential participants, but will consult with NERO prior to imposing such additional restrictions.

XIII. Terms of the Agreement

The terms of this agreement shall become effective upon the signature of both the approving officials of the respective agencies entering into this agreement.

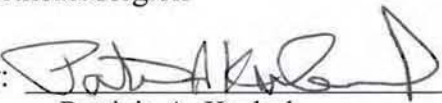
The terms of this agreement shall remain in effect until terminated by: Mutual agreement, in writing; 90 days advanced written notice by either party; or the ending date of the period of performance, whichever shall occur first.

For the purposes of this Agreement, all Federal fishing vessel permits obtained by the State of Maine for the purpose of operating the Permit Bank shall be considered "intangible property" under the terms of 15 CFR 24.34(b). Accordingly, such permits

shall be used for the originally authorized purpose as long as needed for that purpose (determined as the period of effectiveness of this Agreement) and the State of Maine, or its agents, shall not dispose of or encumber its title or other interests. When no longer needed for the originally intended purpose, and upon mutual agreement by all parties, disposition of such permits shall be made as provided in 15 CFR 24.32(e).

APPROVED:

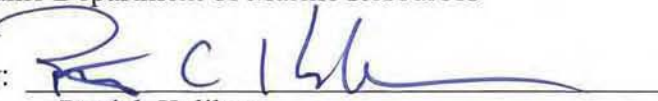
National Marine Fisheries Service
Northeast Region

By: 

Patricia A. Kurkul
Regional Administrator

Date: Nov 22, 2011

Maine Department of Marine Resources

By: 

Patrick Keliher
Acting Commissioner

Date: Nov 28, 2011

Attachments

- A. Contact Representatives
- B. Statement of Work from ME DMR

Attachment A

Contact Representatives

National Marine Fisheries Service
Northeast Regional Office
Contact:

Michael Pentony
Senior Fishery Policy Analyst
55 Great Republic Drive
Gloucester, MA 01930
(978) 281-9283 (phone)
(978) 281-9135 (fax)

Maine Department of Marine Resources
Contact:

Terry Stockwell
Director of External Affairs
21 State House Station
Augusta, ME 04333
(207) 624-6553 (phone)
(207) 624-6024 (fax)

**Maine Department of Marine Resources
Pilot Permit Bank Program
March 24, 2010**

Grant Amount: \$1,000,000

Project Leader: Terry Stockwell, ME DMR Director of External Affairs
207-624-6553, terry.stockwell@maine.gov

Federal Funding Opportunity #: NOAA-NMFS-NERO-2010-2002373
under the CFDA No. 11.454

Note: this \$1 million award will supplement the \$1,999,000 already received to develop and implement the pilot Maine permit bank program. This proposal includes budget specifics for this round of funding as well as an overall budget for the entire program.

Introduction and Scope of Work:

As stocks and fishing opportunities have declined, Maine has lost much of its historic and valuable groundfishing industry. The loss of associated infrastructure has led remaining vessels to relocate to the few remaining ports offering support services. Although catch shares offer the potential for more cost-effective and efficient fishing practices, they also threaten to exacerbate this consolidation. Permit banking offers an opportunity to mitigate some of the adverse impacts of consolidation by preserving and restoring fishing opportunities for small-scale fishermen operating in small, rural fishing ports.

Working collaboratively with the National Marine Fisheries Service (NMFS), the Maine Department of Marine Resources (DMR) has signed a Memorandum of Agreement (MOA) to implement a pilot permit banking program in order to preserve and restore fishing opportunities to Maine's fishermen and communities.

DMR will use the awarded funds to purchase federal limited access northeast multispecies permits. These permits will be held by DMR, and the fishing privileges attached to them will be distributed to Maine fishing vessels that meet the requirements defined in the Memorandum of Agreement (MOA) jointly signed by DMR and NMFS.

The goal of the pilot permit banking program is twofold. First, as outlined in the signed MOA, permits will be purchased that will result in short-term economic assistance to small vessels operating from rural Maine ports. Second, DMR envisions that these permits will result in long term benefits for the State of Maine by potentially providing future access to rebuilt stocks for Maine's fishermen and coastal communities.

Permit acquisition process:

Upon receipt of this award DMR will publish a request for proposals (RFP) soliciting competitive bids for groundfish permits with ACE appropriate for vessels fishing exclusively in the Northern Gulf of Maine. A scoring formula will ensure the most appropriate and cost-effective permits are purchased. Scoring will be weighed by the PSC values of applicable species. The scoring will also factor in whether or not the permit is currently owned by a Maine resident. Additionally DMR intends to purchase some permits with low PSC. It is anticipated that these permits will be relatively inexpensive, but will ultimately benefit Maine when the dividends from eventual stock recovery are able to be distributed to all permit holders. Because, under the terms of the MOA, these permits can only be leased to DAS vessels for one year, DMR will assign a low value to the low PSC permits. DMR is not interested in acquiring vessels, nor will we assign any value to vessels that may accompany permits up for bid. Winning bids will be placed in confirmation of permit history (CPH) status. Should it be necessary to transfer permits to vessels, all permits will be transferred to Maine Marine Patrol vessels. DMR intends to work closely with our NMFS partners to determine the best course of action.

DMR plans to convene a RFP review board of four. In addition to two key Department staff, the Department intends to invite one outside reviewer and one commercial fisherman.

The number of permits ultimately purchased will depend on the number and type of bids submitted. DMR anticipates purchasing between 12-20 permits.

RFP Timeline:

The State of Maine has a formal RFP process with strict timelines that must be adhered to. DMR staff is in the process of developing the RFP and the bid rating formula. Because of uncertainties in the federal grant process timeline, it is not known exactly when the funds will be received. Staff anticipates publishing the RFP in May. Following the release, DMR will accept bid submissions for 30 days. Department staff will then take one week to conduct an internal review of the submissions and determine if any additional information is necessary. Finally, the review board will meet to discuss and rank the submissions accepting as many bids as the funding will allow.

Allocation of fishing privileges:

While DMR originally anticipated allocating fishing privileges in FY 2010, the allocation timeline cannot be determined until after the winning bids have been selected and reviewed. Federal fishing regulations prohibit permits from leaving a sector within a fishing year. The MOU requires that sectors receiving fishing opportunities meet certain requirements. If DMR purchases permits from sectors that do not meet these requirements, the program will not be able to utilize the associated fishing opportunities until the permit is transferred to an eligible sector. This cannot happen until May 1, 2011. In addition, DMR will need to review the FY 2010 history of each purchased permit. Because sectors are free to transfer individual permits' ACE freely within the sector, DMR will need to determine how much of this ACE has already been caught by the time the permit is purchased. Consequently, DMR may purchase permits with a high PSC but low or exhausted FY 2010 ACE.

Budget Narrative:

Current ("Third Permit Banking") Award:

DMR charges a standard 25% indirect rate to most grant expenditures. However, amounts budgeted in previous proposals for supplies, travel, personnel and other expenses should be sufficient to establish the program and administer it until it becomes self-supporting. Therefore 100% of this final award will be spent on permit acquisition.

Previous Awards:

Groundfish Emergency Economic Assistance Grant (NA09NMF4520244, \$299,700): DMR reserved a portion of this award for the following aspects of permit banking administration:

Supplies and travel: \$3,760 was reserved for supplies, and \$5000 was reserved for travel.

Temporary research associate; website design: DMR reserved \$12,000 for a temporary research associate and \$28,390 for website design. Since that time, negotiations with the NMFS and discussions within DMR have indicated these services may not be necessary. Should these costs not be incurred, an amendment will be filed requesting this \$40,390 be used for permit acquisition.

First permit banking award, federal award number Pending, \$1 million

Fixed costs: DMR reserved a reduced indirect rate of 5% (\$50,000) to cover mandatory fixed costs (State and Local Government Fixed Accounting Costs) that will be charged by the State of Maine upon purchasing the permits, with the small remainder to cover any additional unanticipated expenses. Since a recent meeting with the State of Maine, Controllers Office the

\$50K amount will not be assessed. So the entire \$1 million will be used for permit acquisition. The budget table below reflects this change.

Second permit banking award, federal award number Pending, \$999,000

Personnel: Working under the direction and guidance of Terry Stockwell, Togue Brawn will be devoting a significant amount of time to the development and implementation of this program. She will help develop the RFP, will serve on the review board, and will administer all aspects of the program. Because of the scope of this program, DMR has reserved half of her salary for one year (\$35,633 including benefits). Lin Gosselin will be the primary finance administrator for this program. DMR has reserved four weeks of her salary (\$6,624 including benefits).

RFP Process: DMR reserved \$5,000 to cover costs associated with the RFP process (advertising, mailings, meeting room space, travel costs).

Total for Permit Acquisition:

DMR will devote the remaining funds, totaling \$2,939,929 to purchase federal limited access northeast multispecies permits.

Permit Banking Budget	300K	1 mil	999	1 mil	Sum Totals
Personnel					
Togue Brawn (50%)			\$ 22,815		\$ 22,815
Lin Gosselin (4 weeks)			\$ 4,270		\$ 4,270
Brawn benefits			\$ 12,818		\$ 12,818
Gosselin benefits			\$ 2,354		\$ 2,354
Temp research associate	\$ 12,000				\$ 12,000
Website Design	\$ 28,390				\$ 28,390
Supplies	\$ 3,760				\$ 3,760
Travel	\$ 5,000				\$ 5,000
Indirect	\$ 20,340		\$ 11,814		\$ 32,154
RFP costs			\$ 5,000		
Permit Acquisition		\$ 1,000,000	\$ 939,929	\$ 1,000,000	\$ 2,939,929
Non-permit acquisition	\$ 69,490	\$ -	\$ 59,071	\$ -	\$ 123,561
Sum	\$ 69,490	\$ 1,000,000	\$ 999,000	\$ 1,000,000	\$ 3,063,490

Ernest F. Stockwell III [Terry]

58 Hendricks Hill Rd.
Southport, Me. 04576
207-633-4417

Experience:

2005 – Present. Director of External Affairs, Maine Department of Marine Resources, Hallowell, Maine

1996 - 2007. Southport Harbor Master

1996 - 2005. Resource Management Coordinator, Maine Department of Marine Resources, West Boothbay Harbor, Maine

1978 - 1996. Commercial Fisherman

1995 - 1996. Fisheries Consultant for Natural Resources Policy Development. Coastal Enterprise Inc., Wiscasset, Maine

1992 - 1997. Winter Manager, Boothbay Harbor Marina, Boothbay Harbor, Maine

1976 - Present. USCG 500 ton Masters License

Education:

1996. Maine Maritime Academy, Maine Harbor Master Program

1976. Connecticut College, B.A. in Government and Studio Art

1973. Simons Rock Early College, A.A.

1969 - 1972. Holderness School

Professional Organizations:

2007 – Present. Portland Fish Exchange Authority Board

1997 - Present. State of Maine Representative to the North East Large Whale Recovery Implementation Team

1997 - Present. State of Maine Representative to the Large Whale Take Reduction Team

1997 - Present. State of Maine Representative to the Harbor Porpoise Take Reduction Team

1996 - 2007. Maine Harbor Masters Association

1996 - 1997. Industry Representative to the Atlantic Large Whale Take Reduction Team

1995 - 1996. Industry Representative to NMFS Harbor Porpoise Take Reduction Team

1995 - 1996. Industry Representative to the Committee to Organize the N.W. Atlantic Marine Alliance

1990 - 1996. Maine Gillnetters Association

1992 - 1993. Vice-President, Maine Gillnetters Association

1993 - 1996. Mid-coast Representative, New England Gillnetters Coalition

1993 - 1996. Industry Representative to the Boothbay Harbor Town Fish Pier Committee

1992 - 1996. National Seafood Harvesters Association

1992 - 1995. Industry Representative, N.E. Harbor Porpoise Working Group

1992 - 1995. Maine Representative to New England Aquarium/UNH Sea Grant Harbor Porpoise Acoustical Experiments

1986 - 1987. DMR Lobster Advisory Council

1978 - 1994. Maine Lobstermen's Association

Miscellaneous:

2003. William Twarog Manager of the Year Award

2000. Gulf of Maine Visionary Award

1999. Maine Lobstermen's Association Leadership Award

1997. US Department of Commerce Certificate of Merit

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March 23, 2010

EDUCATION

University of Maine at Augusta, Bachelorate Degree in Business Administration: Management Major, May 2003
University of Maine at Augusta, Associate's Degree in Business Administration; Management Major - May 1994
Cony High School, Augusta, High School Diploma, Business, June 1978
Attended classes on Certified Government Financial Manager training, 2006
State of Maine, Maine Management Service, Maine Leadership Institute, January 2005

AWARDS

2003 William Twarog Manager of the Year Award
2001 Employee Service Award

EXPERIENCE

March 20, 2006 to Present – Resource Administrator, PSMI, Department of Marine Resource, Hallowell, ME

In this position I provide professional support in fiscal, administrative, analysis, planning and research activities for the department associated with state, federal, and supplemental funding, policies and procedures. Major responsibilities include preparing, submitting, and monitoring over 100 of the Department's federal and state grants, bonds, and contracts; interpret federal and state laws and regulations as they pertain to grants and contracts; prepare monthly budget, semi-annual, completion, and annual State SEFA reports; maintain federal aid database; setup user profiles for department staff; analyze, reconcile, and track expenditures and revenue on federal aid and dedicated accounts. Work with state and federal auditors and respond to inquiries regarding Departmental fiscal activities. Provide departmental administrative support and guidance in procurements, contracts, A/P, A/R, insurance, inventory, internal controls, update TAMS employee accounts, initiate draw down requests from electronic fund transfer sites and process journal vouchers.

Work with IT staff to setup approval roles and work flows for Department staff in the new procurement and accounting system and also provide updated training to Department staff on the new system.

December 1, 2003 to March 17, 2006 – Business Manager II- - Position Reclass -- Department of Defense, Veterans, and Emergency Management, Military Bureau, Directorate of Facilities Engineering, Resource Management Division, Camp Keyes, Augusta, ME Responsibilities I had as Business Manager I included all duties mentioned below with the addition of ensuring all Military Bureau infrastructure was properly insured and recorded on the state's fixed asset system; developed and defined Standard Operating Procedures and internal controls on: Financial transactions, proper use of Fleet vehicles, Federal Advance and Reimbursement processes, and payrolls. I coordinated and resolved insurance claims for damages to buildings, vehicles and other property claims; Coordinated Lease Space needs; and supervised the Armory Rental Program.

January 15, 2001 to November 30, 2003 – Business Manager I - - Department of Defense, Veterans, and Emergency Management, Military Bureau, Directorate of Facilities Engineering, Resource Management Division, Camp Keyes, Augusta, ME – I was responsible for all financial planning, budgetary, accounting functions, personnel, procurement and contracting, inventory, policy and procedure evaluation, and maintenance activities. As supervisor of the Resource Management Division, I provided technical, fiscal, administrative and support services primarily for the Directorate, and assisted department staff when involving state procedures for federally supported programs. I prepared, requested and executed both State and Federal Budget submissions in excess of \$9.5 million and federal military construction projects in excess of \$10 million per year. Acted as the Military Bureau representative for state and federal fiscal audits.

Developed, monitored, modified, reconciled and analyzed the state and federal budgets to provide managerial and financial direction to department administrative heads for Operations and Maintenance, Physical Security, Training Sites, Electronic Security, Major Military Construction, and Real Estate of the Federal Appendices and State expenditures. I prepared expenditure and revenue reports for budget requests and cuts. I created an account code structure in the state A/P and A/R system to track and report federal expenditures and revenue.

Acted as Sub-Program Manager for the State and Federal Master Cooperative Agreement (MCA), to ensure compliance with applicable regulatory requirements, advised Federal Program Managers, and provided recommendations for changes to State and Federal Administrators. Reviewed all charges and reimbursements of the MCA to ensure accuracy and recommended changes to the Federal Resource Manager, Director, and the Deputy Commissioner.

Coordinated with and advised Agency administrators, National Guard Bureau, and other State Department authorities concerning management, fiscal, budgetary and operational issues. Provided fiscal data for Service Based Costing and reported data annually to National Guard Bureau. Coordinated with State and Federal Agency representatives to resolve fiscal and accounting errors by determining the most efficient methods to ensure compliance with existing contracts, policies and procedures within the State and Federal Master Cooperative Agreement.

January 2000 to January 12, 2001 - Acting Environmental Specialist II - Department of Defense, Veterans, and Emergency Management, Military Bureau, Directorate of Facilities Engineering, Environmental Office, Camp Keyes, Augusta, ME – I was responsible for planning, preparing, submitting and approving the Environmental Budget. I developed contracts, scopes of work, and worked with consultants to provide services for various projects to comply with federal and state environmental laws. I gathered data for the External Compliance Assessment Survey (ECAS) that was contracted through a private consulting firm. I researched information on various environmental media areas for the Maine Army National Guard facilities that were identified by the consultant to inspect for compliance.

February 1998 to January 12, 2001 - Planning and Research Associate I - Department of Defense, Veterans, and Emergency Management, Military Bureau, Directorate of Facilities Engineering, Environmental Office, Camp Keyes, Augusta, ME - I prepared and managed fiscal reporting requirements to include: budgets, project status, financial reports, cost analysis, and requests for payment. I determined advantageous methods for data management on projects and budget information and provided technical and administrative assistance in statistical analysis and office management. I coordinated with the State Environmental Specialist on the overall planning and reporting of the environmental program. Maintained the Environmental Quality Reporting database for the National Guard Bureau on environmental issues relating to the Maine Army National Guards training sites and armories. I prepared a standard operating procedures manual to process federal technician and state travel requests, federal travel orders, claims, federal reimbursements, how to utilize the various electronic forms and databases, and other various office procedures.

Prepared and reviewed state contracts and agreements for accuracy, tracked project expenses and suspense dates, monitored projects until completion. Managed environmental projects, developed scope of work, provided direction for contractors and consultants, and coordinated with regulators to ensure legal requirements were met. Interpreted and communicated policies, rules, and regulations to employees, agencies, and to the general public.

February 1996 to February 98 - Clerk IV - Secretary of State, Bureau of Motor Vehicles, Public Services Division, State House Station 29, Augusta, ME - I was responsible for the Registration Section within the Public Services Division. I stayed abreast of all Title 29-A rules, regulations, office policies and procedures and made recommendations for improvement. I supervised seven staff members and ensured the functions of the unit were executed properly and efficiently using knowledge of Title 29-A, departmental policies and procedures. I monitored all work for accuracy, quality, and promptness; ensured work schedules did not conflict; assisted office and branch staff with solving difficult situations concerning the registration process; conducted monthly staff meetings; and maintained payroll records.

The Bureau of Motor Vehicles offers over 70 different types of license plates to agencies and the public for different types of vehicles and equipment. I was responsible for training staff on how to process these plates, to prepare computer-programming modifications, and to answer staff and customers inquiries. I compiled an employee instructional manual, which included step-by-step instructions on how to process the transactions.

I developed and recommended policies and procedures on how to process various transactions based on legislative mandates or changes in the software used on the department's main frame. I was responsible for evaluating, reviewing, researching, and approving requests for abandoned vehicles, refunds, rebates, and vehicle

registration cancellations. I maintained a monthly and yearly report for all revenue and transaction totals for my section. I served on two committees whose mission was to streamline the registration process.

March 1988 to February 1996 - Clerk IV - (reclassified from Clerk III), Bureau of Parks and Recreation, Department of Conservation, State House Station 22, Augusta, ME - Responsibilities included supervision, handled the APA process for the revision of the Bureau's rules and regulations, managed the state campsite reservation program, and sale of promotional items. I resolved difficult problems concerning camper reservations and accounted for discrepancies in inventory, sales and income.

I played an important role in the planning, research, and design of the reservation program. I developed policies, procedures, forms, and methods to store the information. I prepared data analysis reports to provide management with an overview of the program's status, compared data from previous years, and tracked user trends. I compiled an instructional manual for operating the reservation software programs, credit card computer, defined Bureau policies, and suggestions for statewide implementation. I provided training to field and office staff on updated information and changes in policies and procedures.

I compiled fiscal and annual analysis reports for parks dedicated and general fund accounts on information such as: expenditures, income, public use figures, job related injuries, reservation and training surveys, repair costs, season pass sales, reservation statistics, and the sale of promotional items. These analysis reports were used to project future trends in income generation, public use, impacts on the facilities, budgeting, long range planning, and at the same time monitored the state park system.

I was a member of the Bureau's training committee, elected for a three-year term. This committee coordinated, developed, and formulated training needs for all Bureau personnel.

November 1985 to March 1988 - Clerk III - Bureau of Parks and Recreation, Department of Conservation, 22 State House Station, Augusta, ME 04333-0022 – My responsibilities included: supervision, reviewed payrolls, ordered supplies, paid invoices, and kept accurate accounting records for the petty cash account. I maintained accurate records for capital inventory (\$1.5 million), public use, worker's compensation injuries, and vehicle reports. I compared and analyzed data on expenditures, income, public use, job-related injuries, and repair costs.

I provided extensive computer support, trained and assisted Bureau and Department staff users, and kept backups of the Bureau's computer system. In 1987, with the institution of a statewide campsite reservation system for state parks I was given the opportunity to research, to implement and to supervise the program.

December 1983 to November 1985 - Clerk Typist II - Land Use Regulation Commission (LURC), Dept. of Conservation, 22 State House Station, Augusta, ME - My responsibilities in this position encompassed all facets of office administration including word processing, maintenance of permit files, answered questions regarding LURC rules and policies, informed and assisted the public, produced reports and mailing labels from the database, and distributed large mailings. I also handled on occasion financial matters such as: payroll, incoming bills, ordering supplies, prepayment requests, Purchase Requisitions, Open Market and Contract Release Purchase Order forms.

December 1982 to December 1983 - Clerk II - Workers Compensation Commission, State House Station, Augusta, ME - I provided information to claimants and insurers, knowledge of worker's compensation laws and policies, worked closely with the public and maintained departmental insurance cards files, answered telephone, and handled mail. I coded information on insurance cards for the computer conversion.

June 1979 to December 1982 - Clerk Typist I - Workers Compensation Commission, State House Station, Augusta, ME - Researched and maintained departmental claim files, had knowledge of worker's compensation laws, trained new employees, and performed general office duties.

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Relevant Work History

Maine Department of Marine Resources, Hallowell, Maine

September 2007 – present: Resource management coordinator. Administer Maine Scallop Advisory and Sea Urchin Zone Councils; help develop/implement new State and NGOM management measures; track, review, and analyze evolving federal law and funding issues that pertain to Maine and draft appropriate comments; provide support to Director of External Affairs on NEFMC and ASMFC issues; act as liaison between DMR and Maine fishermen's organizations.

Fisheries Consulting Services, Bath, Maine (self-employed)

January 2003 - August 2007: Fisheries consultant. Conducted short-term projects dealing with Gulf of Maine fisheries issues. Served from January - July 2004 as Portland area coordinator for the Massachusetts Fishermen's Partnership Community Panels Project. Interviewed stakeholders (fishermen, seafood dealers, city officials), organized and led a final panel meeting with fishermen. Wrote a 35-page report describing the history and state of Portland's fishing industry and infrastructure, and presented findings at regional project meeting.

Gulf of Maine Research Institute, Portland, Maine

August 2004 - October 2004: Tagging workshop coordinator. Coordinated a workshop to discuss the state of fish tagging science in the northeastern US. Selected venue, helped recruit speakers and visitors, and arranged operational details prior to and during the event.

September 2003 - July 2004: Shrimp Environmental Monitoring Project Coordinator.

Handled operational details for project, arranged training for observers, served as primary sea sampler for all cruises and processed samples.

February 2002 – August 2003: Collaborative Research Assistant. Work to facilitate research and communication between researchers, fisheries managers, and scientists. Created and refined collaborative research proposals. Coordinated various aspects of collaborative research. Held area meetings to familiarize Maine fishermen with research opportunities, and helped them to develop their ideas and apply for grant monies.

University of Maine, Orono, Maine

September 2000 - August 2002. Graduate Research Assistant. Conducted research on the Georges River Clam Management Program. Researched state and local landings and management history, interviewed local harvesters and managers and state management officials. Drew on this research and multi-disciplinary coursework to describe the factors that led to the development of Maine's first multi-town clam management program. Presented findings in a 110-page thesis, as well as at my defense and at the 2003 Maine Fishermen's Forum.

Bait Cups Inc., Cape Elizabeth, Maine

March 1998 - August 2002. Sales and Marketing Manager. Helped start-up operations for "Bait Cups", a novel bait delivery system for lobster and crab traps (invented by Peter Brawn).

Designed sales and marketing campaign. Traveled the coast from Nova Scotia to New Jersey to

introduce and market the product to fishermen. Attended industry meetings and events to distribute samples and solicit feedback.

Education

Duke University, Durham, N.C.

Received B.A. with distinction in Geology May, 1992. Senior thesis concerned the platinum-bearing pegmatite region of Montana's Stillwater Complex. Research published in *Chemical Geology*, June 1994.

University of Maine, Orono, Maine

Received M.S. in Marine Policy specializing in fisheries management August, 2002. Thesis research concerned the Georges River Clam Management Program.

Harvard Law School Program on Negotiation, Cambridge, Mass

Completed fall semester negotiation course, December 2004.

Publications

The Alaskan Weathervane Scallop Cooperative, Published in Case Studies in Fisheries Self-Governance, Food and Agriculture Organization of the United Nations, Rome, Italy 2008.