



New Hampshire Fish and Game Department

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November 19, 2015

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the New Hampshire Fish and Game Department (NHFG) to enter into a Memorandum of Agreement with the Atlantic States Marine Fisheries Commission to disburse the third group (Bin #3) of Greater Atlantic Fisheries Disaster Assistance Funds effective upon Governor and Council approval through June 30, 2016.

EXPLANATION

The Department of Commerce received a number of requests and letters of support from the governors and congressional delegations in the northeast region for a stated commercial fishery failure for the Northeast Multispecies Groundfish Fishery. In September 2012, then-Acting Secretary of Commerce Rebecca Blank declared the Northeast multispecies groundfish fishery a commercial fishery failure under Section 312(a) of the Magnuson-Stevens Act and Section 308(b) of the Interjurisdictional Fisheries Act.

The National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) announced in February 2014 that \$75 million was appropriated by Congress to be allocated to six fisheries across the country that had declared fishery disasters by the Department of Commerce in 2012 and 2013. The NOAA Fisheries and the New England states reached a compromise in May 2014 on how to distribute the \$32.8 million in federal fishery disaster funds allocated to the Northeast Multispecies Groundfish Fishery.

The disbursement of funds was apportioned approximately in thirds as follows:

1. Direct Assistance (Bin 1): One-third was for direct assistance and distributed equally to approximately 345 holders of permits in the Northeast multispecies fishery who landed at least 5,000 pounds of groundfish in any one of the past four fishing years between 2010 through 2013. Qualified permit holders from each of the affected states received a check for \$32,500;
2. State-specific grants (Bin 2): One-third to be apportioned among the states based on the percentage of revenue losses affecting each state. However, no state receives less than \$250,000. States will have discretion on how to determine the most appropriate way to distribute the funds to their affected fishing industry and communities.

REGION 1
629B Main Street
Lancaster, NH 03584-3612
(603) 788-3164
FAX (603) 788-4823
email: reg1@wildlife.nh.gov

REGION 2
PO Box 417
New Hampton, NH 03256
(603) 744-5470
FAX (603) 744-6302
email: reg2@wildlife.nh.gov

REGION 3
225 Main Street
Durham, NH 03824-4732
(603) 868-1095
FAX (603) 868-3305
email: reg3@wildlife.nh.gov

REGION 4
15 Ash Brook Court
Keene, NH 03431
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3. Buy-out or Buy-back Program (Bin 3): One-third was to be held in reserve as NOAA Fisheries, the states, and fishing industry members attempt to develop a federally-funded buyout or industry-funded buyback program.

New Hampshire has received \$2,046,400 to date: Bin 1) \$910,000 for direct assistance to New Hampshire groundfish harvesters based on defined criteria, and Bin 2) \$1,136,400 for distribution to the groundfish industry at the state's discretion to help address both the immediate needs and the long term viability of its small boat groundfish fleet, for-hire fleet, and infrastructure.

However, due to an impasse in developing a Buy-out or Buy-back Program and the need to provide immediate assistance to the imperiled groundfish fishing vessels, NOAA Fisheries decided to release a large portion of Bin 3 funds to the Northeast states for additional financial assistance for northeast multispecies groundfish and for-hire permittees with top priority given to active vessels. New Hampshire has been apportioned \$1,044,351.00 from the Bin 3 funds to be distributed to its affected groundfish commercial and for-hire fishing community.

This Memorandum of Agreement establishes the terms and conditions of the disbursement of Bin 3 funds to New Hampshire's groundfish commercial and for-hire fishing community and supporting infrastructure (Attachment 1). Attachment 2 is synopsis of the approach/statement of work to distribute Bin #3 funds.

Respectfully submitted



Glenn Normandeau
Executive Director



Kathy Ann LaBonte
Chief Business Division

ATTACHMENT 1: Memorandum of Agreement between the New Hampshire Fish and Game Department and the Atlantic States Marine Fisheries Commission to disburse the third apportionment (Bin #3) of Greater Atlantic Fisheries Disaster Assistance Funds.

MEMORANDUM OF AGREEMENT

Between

Atlantic States Marine Fisheries Commission

And

The New Hampshire Fish and Game Department

For The

**Disbursement of Greater Atlantic Fisheries Disaster Assistance
Funds (Bin #3)**

November 2015

I. Parties to the Agreement

This document constitutes an agreement between the Atlantic States Marine Fisheries Commission (Commission) and the New Hampshire Fish and Game Department (NHFG). This agreement shall be referred to herein as the Agreement.

The Atlantic States Marine Fisheries Commission is composed of the 15 Atlantic coastal states, including the State of New Hampshire. The Commission supports the states in the management of interjurisdictional fisheries, as well as in the development and enactment of cooperative programs. These programs can support the State in managing both recreational and commercial fisheries by the Commission and its member states.

The NHFG was established to act as stewards of the fish, wildlife and marine resources of the State of New Hampshire, to protect, propagate, and preserve the fish, game and wildlife resources of the State, and to adopt rules for the adequate and effective control, management, restoration, conservation and regulation of the fish, game, bird and wildlife resources of the State, and the regulation and promotion of both recreational and commercial marine fishing in the salt waters of the State.

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

II. References and Authorities

1) The Atlantic States Marine Fisheries Commission was formed by the Atlantic coastal states in 1942 to address their common interests in coastal marine fisheries. The purpose of the Commission is to promote the better utilization of the fisheries of the Atlantic seaboard by the development of a joint program for the promotion and protection of such species. The role of the Commission is to support its state members on all of those fisheries programs where they share a mutual interest, including fisheries management, statistics, research, habitat, law enforcement and other matters of common concern.

The Atlantic Coastal Fisheries Cooperative Management Act mandates a cooperative state-federal program for the conservation of Atlantic coastal fisheries. This cooperative program includes fisheries statistics, as well as fisheries management, research, law enforcement and habitat. The Commission has the authority to enter into agreements with its member states in order to implement cooperative programs to assist member States.

2) N.H. Rev. Stat. Ann. 206:23-a, which states the executive director, with the consent of the commission, shall have the power and authority to enter into agreements with individuals, partnerships, and corporations, whether resident or nonresident, for the purpose of implementing fishways or fish ladders and any other matters relative to the protection, propagation, and preservation of fish, game, and fur-bearing animals of this state.

III. Purpose

Despite harvester's adherence to catch limits over the past few years, several key groundfish stocks are not rebuilding. Low levels of these stocks have caused a significant loss of access to fishery resources with revenue declines that have greatly affected the northeast commercial groundfish fishery.

The Department of Commerce received a number of requests and letters of support from the governors and congressional delegations in the northeast region for a stated commercial fishery failure for the Northeast Multispecies Groundfish Fishery. In September 2012, then-Acting Secretary of Commerce Rebecca Blank declared the Northeast multispecies groundfish fishery a commercial fishery failure under Section 312(a) of the Magnuson-Stevens Act and Section 308(b) of the Interjurisdictional Fisheries Act.

The National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) announced in February 2014 that \$75 million was appropriated by Congress to be allocated to six fisheries across the country that had declared fishery disasters by the Department of Commerce in 2012 and 2013. The NOAA Fisheries and the New England states reached a compromise in May 2014 on how to distribute the \$32.8 million in federal fishery disaster funds allocated to the Northeast Multispecies Groundfish Fishery.

The disbursement of funds was apportioned approximately in thirds as follows:

1. Direct Assistance (Bin 1): One-third was for direct assistance and distributed equally to approximately 345 holders of permits in the Northeast multispecies fishery who landed at least 5,000 pounds of groundfish in any one of the past four fishing years between 2010 through 2013. Qualified permit holders from each of the affected states received a check for \$32,500;
2. State-specific grants (Bin 2): One-third to be apportioned among the states based on the percentage of revenue losses affecting each state. However, no state receives less than \$250,000. States will have discretion on how to determine the most appropriate way to distribute the funds to their affected fishing industry and communities.
3. Buy-out or Buy-back Program (Bin 3): One-third was to be held in reserve as NOAA Fisheries, the states, and fishing industry members attempt to develop a federally-funded buyout or industry-funded buyback program.

New Hampshire (NH) has received \$2,046,400 to date: Bin 1) \$910,000 for direct assistance to New Hampshire groundfish harvesters based on defined criteria, and Bin 2) \$1,136,400 for distribution to the groundfish industry at the state's discretion to help address both the immediate needs and the long term viability of its small boat groundfish fleet, for-hire fleet, and infrastructure.

Due to an impasse in developing a Buy-out or Buy-back Program and the need to provide immediate assistance to the imperiled groundfish fishing vessels, NOAA Fisheries decided to release a large portion of Bin 3 funds to the Northeast states for additional financial assistance for northeast multispecies groundfish and for-hire permittees with top priority given to active vessels. New Hampshire has been apportioned \$1,044,351.00 from these Bin 3 funds to be distributed to its affected groundfish commercial and for-hire fishing community.

This Memorandum of Agreement establishes the terms and conditions of the disbursement of Bin 3 funds to New Hampshire's groundfish commercial and for-hire fishing community.

IV. Terms and Conditions

1. The ASMFC and the State of New Hampshire, acting through its Fish and Game Department, will be partnering to efficiently and effectively distribute Bin 3 Greater Atlantic Fisheries Disaster grant funds (NOAA Award Number NA15NMF4540175) to New Hampshire's (NH) affected vessels and infrastructure in the NH groundfish fishery.
2. The NHFG agrees to develop a spend plan to disburse Bin 3 funds with input from the affected commercial and for-hire groundfish industry.
3. The NHFG agrees to develop the criteria and percentages for distribution of Bin 3 funds, the collection and summarization of data and information needed as input for the qualifiers, conduct meetings and communications with industry, including preapproval, notification, and approval of qualified groundfish permittees, companies, individuals, etc., as well as to monitor and provide oversight of distribution of the funds.

V. Period of Performance

This Agreement shall be effective on the date it is signed by all parties, and approved by the governor and executive council, and shall terminate on June 30, 2016.

VI. Funding and Payments

ASMFC agrees to distribute the payments in a manner approved by NHFG to the qualified groundfish industry and provide 2% (\$20,887) of the grant funds to the NHFG for administrative work conducted towards the grant upon receipt of required final report and prior to closing of the grant.

If any party cannot carry out its responsibilities under this Agreement that party will notify and consult with the other party within 45 days.

VII. Performance Reports

The NHFG shall prepare, and submit to the ASMFC contact representative, project reports required by the NOAA Fisheries-Grants. Such reports shall be due to ASMFC according to the table below and shall include, at a minimum, the following information:

- a. Report due dates:

Report Type	Date Due to ASMFC	Date Due to NOAA Grants
Progress	January 15, 2016	January 30, 2016
Progress/Final	July 30, 2016	September 30, 2016

- b. Report information:

- 1) Title page;
- 2) Job Objective;
- 3) Procedures;
- 4) Progress conducted during the above stated time frames for Progress Reports;
- 5) Results and Discussion for Final Report.

VIII. Amendments and Review

This Agreement may only be amended in writing signed by ASMFC, NHFG, and Office of the NH Attorney General, and approved by the New Hampshire Governor and Council.

IX. Other Provisions

This Agreement shall be construed to be consistent with the NOAA Fisheries grant award and other applicable Federal laws and regulations promulgated thereunder.

Nothing herein is intended to conflict with ASMFC or NHFG directives. If the terms of this Agreement are inconsistent with existing directives of the organizations 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.

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.

X. Terms of the Agreement

The terms of this agreement shall remain in effect until terminated by: Mutual agreement, in writing; or the ending date of the grant period, whichever shall occur first.

APPROVED:

Atlantic States Marine Fisheries Commission

By: Laura C Leach
Laura Leach
Director of Finance and Administration

Date: 11.13.15

New Hampshire Fish and Game Department

By: Glenn Normandeau
Glenn Normandeau
Executive Director

Date: 11.19.15

Approved by the ATTORNEY GENERAL this 24 day of Nov., 2015.

[Signature]
Sr. Assistant Attorney General

Attachments

A. Contact Representatives.

Attachment A: Memorandum of Agreement Contact Representatives

New Hampshire Fish and Game Department
Contact:

Cheri Patterson
Supervisor Marine Programs
Marine Fisheries Division
225 Main St.
Durham, NH 03824
(603) 868-1095 (phone)
(603) 868-3305 (fax)
cheri.patterson@wildlife.nh.gov

Atlantic State Marine Fisheries Commission
Contact:

Laura Leach
Director of Finance and Administration
1050 N. Highland Street, Suite 200 A-N
Arlington, VA 22201
703-842-0740 (phone)
703-842-0741 (fax)
lleach@asmfc.org

ATTACHMENT 2: Approach/Statement of Work

The Atlantic States Marine Fisheries Commission and the New Hampshire Fish and Game Department (NHFG) will be partnering to efficiently and effectively distribute Bin 3 Greater Atlantic Fisheries Disaster grant funds to New Hampshire's affected vessels in the New Hampshire groundfish fishery and its supporting infrastructure.

The NHFG will develop a spend plan to disburse Bin 3 funds with input from the affected commercial and for-hire groundfish industry through the collection and summarization of data and information needed as input for the qualifiers, conduct meetings and communications with industry, and define the criteria and percentages for distribution of Bin 3 funds. Additionally, the NHFG will conduct the preapproval, notification, and approval of qualified groundfish permittees, companies, individuals, etc., as well as monitor and provide oversight of distribution of the funds by ASMFC.