



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JAN -6 2010

The Honorable Barney Frank
U.S. House of Representatives
Washington, DC 20515

Dear Representative Frank:

Thank you for your letter following up on our meeting in October at which we discussed issues of importance to the New England commercial fishing industry. I enjoyed our conversation, and I certainly agree that we share common interests in being active partners in managing and conserving fish stocks for sustainable fisheries and fishing communities, and for a healthy marine ecosystem. We also share your desire to minimize and mitigate the economic and social impacts of the actions that we are taking in order to meet the requirements of the Magnuson Stevens Fishery Conservation and Management Act. We have been working closely with the New England Fishery Management Council to assist them in making the best decisions possible under these difficult circumstances. In addition, we agree that having better information, both scientific and economic, will benefit us all in our efforts to optimize yields of healthy stocks, while providing appropriate protection of those that are overfished or experiencing overfishing.

Your letter was quite detailed and raised many points of concern. I read it carefully, and then asked the experts at NMFS to look into each issue and report back to me. Given the specificity and technical nature of the questions and concerns raised in the letter, I believe the best way to fully respond is to provide you and/or your staff a briefing at which time we could have an in-depth discussion of the issues. We would be happy to set this up at your convenience. The purpose of this letter is to briefly address the concerns you raised.

Northeast Skate Complex Amendment 3: With respect to the Northeast Skate Complex Amendment 3, the new daily catch limits were not impacted by the error in calculation of the skate catch limit. The Council caught the calculation error in time to make all necessary revisions to the catch level prior to the final submission of the amendment for review by the Secretary of Commerce. These new limits were set at the reduced level to prevent a race to fish that would likely result in an early shutdown of the wing and bait fisheries, to the detriment of the harvesters and processors of skates. The limits selected by the Council were based on advice from the fishing industry as to what possession limits would best serve to preserve opportunities for the skate industry to land skates year-round. The New England Council worked very closely with its industry advisory panel for more than two years to craft alternatives that achieved the necessary objectives under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) while minimizing impacts to fishing operations. The Council initially considered more targeted approaches, including time and area closures, but rejected those approaches based on the comments from the skate industry, and the desire to minimize any potential negative impacts to the larger and more valuable groundfish, scallop, and monkfish fisheries. During the public hearings held last fall on the draft amendment, there was resounding industry support for the management approach ultimately adopted by the Council.

THE ADMINISTRATOR



Scallop Observer Program: Regarding the scallop observer program, we agree that monitoring is a key to the success of any management regime. The industry-funded program has been part of the Scallop FMP for several years. It was conceived as a way to get better information on the fishery through extra scallop catches, while providing some assistance to those vessels carrying observers. Up until this year, the procedures used to calculate set-aside rates proved adequate to achieve the objectives of the program. In 2009, however, for a variety of unexpected reasons, the same procedures did not reflect what was happening in the fishery, and the set-asides ran out early. We agree that was not a good outcome. To ensure the program is again successful, NMFS Northeast Regional Office staff is taking the administrative actions necessary to improve implementation in the future. However, regardless of improvements to the administration of the program, compensation rates under the current set-aside level are unlikely to cover the full cost of observers, especially on open area days-at-sea trips.

Closed Area Analysis: NMFS scientists have done work to assess the benefits of the closed New England scallop beds. These studies show that the closures have played an important role in the overall increase in abundance of fish and shellfish stocks in the area. This work has been published in the peer reviewed magazine *Oceanus* and in the journal *Oceanography*. Additionally, NMFS scientists and fishery managers are available to provide technical support to the New England Council when the Council determines that a full analysis of the Georges Bank closed areas is a priority and must occur.

Sectors: I understand and respect your opinions regarding sector management. I know that there is a broad range of comfort with such programs and, as I have said many times, catch-share programs are not a panacea for every fishery, though I strongly believe they are worthy of careful consideration among the available management tools. Sector management in the groundfish fishery was first proposed by members of the fishing industry, not by NOAA, as a means for like-minded individuals to voluntarily work together to harvest available resources under a hard quota for each stock, while gaining some added flexibility and efficiency. The two existing sectors in New England have been successful. Several alternatives for providing allocations of fish to sector vessels were considered by the Council, including alternatives based on landings history alone, and alternatives that would factor in a vessel's fishing capacity and allocated days-at-sea in making the allocations. In the end, the Council selected an allocation alternative based solely on stocks previously landed by eligible vessels.

I agree with you that bycatch is of great concern. Neither NMFS nor the Council is relying on sectors alone to eliminate bycatch or wasteful discards. For sector vessels, Amendment 16 would eliminate all trip limits, and would require sector vessels to land all legal-sized fish. This should help reduce discards of legal-sized fish. For common pool vessels, Amendment 16 proposes to require the use of selective gear in more areas to avoid catching overfished stocks. In addition, Amendment 16 would further reduce the number of available days-at-sea allocated to vessels participating in the common pool in order to maintain higher trip limits for certain stocks and avoid excessive discards. This option was selected instead of closing areas or establishing large differential DAS counting areas. Zero possession limits are proposed for several stocks to eliminate

incentives to catch these stocks by all vessels, rather than implementing fishery closures over large areas.

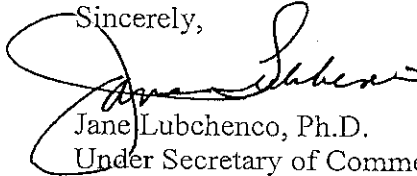
Pollock: With respect to Pollock, we will be conducting a benchmark assessment for pollock in June 2010. This will be a complete reexamination of the pollock resource and will be independently reviewed through the New England Fisheries Science Center's Stock Assessment Review Committee. In doing so, we will examine a much broader range of survey data, and will investigate the applicability of advanced age-based models. Our scientists have been working with their colleagues in Canada to ensure that we have a complete understanding of the U.S. and Canadian pollock fisheries and stock structure, and we have drafted initial Terms of Reference for the assessment, which will be sent out for review by the Council and approval by the Northeast Regional Coordinating Committee. I agree that, given the importance of stock assessments to the management of our fisheries, it is vital that we involve the industry to hear their concerns, answer their questions, and help them understand our science. We will continue to expand the role that the fishing industry and other constituents play in the development of its stock assessments.

U.S.-Canada Transboundary Management Agreement: The success of U.S./Canada management for shared Georges Bank stocks is an important issue for NOAA. We have been working to resolve this with members of your staff, staff of other members of the New England Congressional delegation, and industry, and will continue to do so. We appreciate your help and support in this effort.

Economic Analysis of proposed fishery regulations: Economic analyses of proposed regulatory actions are routinely conducted to inform Council deliberations of management alternatives. These analyses are a requirement of both the Magnuson Stevens Act and the Regulatory Flexibility Act. Depending on availability of scientific data, these analyses range from qualitative discussions to detailed quantitative estimates of economic impacts. I agree that it will be critical to understand fully the economic impacts of sectors and that this economic analysis should be shared with impacted stakeholders such as shoreside businesses and the fishermen themselves so that the best possible catch share program can be designed and implemented.

Again, let me thank you for the time you have taken and the interest you have shown in the issues important to the fishing industry in New England. I look forward to our continuing dialogue on these issues, and to our more detailed briefing for you on the issues covered briefly in this letter. In the meantime, if you need immediate assistance on one of these issues, please contact John Gray, Director of NOAA's Office of Legislative Affairs, at (202) 482-4981.

Sincerely,



Jane Lubchenco, Ph.D.
Under Secretary of Commerce
for Oceans and Atmosphere