

JAN - 7 2011



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

The Honorable Deval Patrick
Governor of Massachusetts
State House
Boston, MA 02133

Dear Governor Patrick:

Thank you for your November 5, 2010, letter to Secretary Locke and the accompanying Massachusetts Marine Fisheries Institute's *Report on the Economic and Scientific Conditions in the Massachusetts Multispecies Groundfishery* (Report) regarding catch limits and economic assistance for the New England groundfish fishery. Our completed review concludes that the Report does not provide new scientific information that is appropriate to replace the peer-reviewed assessment adopted by the New England Fishery Management Council (Council). I am forwarding a copy of your report to John Pappalardo, Chair of the Council, as I believe that the lasting solutions to the problems raised by the Commonwealth are best addressed by the Council's process. I would like to continue to work with your staff to identify ways to assist New England fishermen during this period of lower catch limits.

The Report sets forth commentary regarding both the economic impacts of sector management in Massachusetts and alternative methods for reviewing existing scientific data that support increasing the current annual catch limits (ACL). With respect to the economic impacts of sector management, the Report states that, in aggregate, the National Marine Fisheries Service's (NMFS) landing and revenue data for the first five months of the 2010 fishing years shows that they are comparable to, and in some cases greater than, levels observed for this same period last year; however, the Report expresses concerns that aggregate data mask unforeseen economic impacts that are happening at the community and individual levels. In addition, the Report suggests use of alternative assessments, smaller buffers, and revised rebuilding objectives to increase groundfish ACLs. This letter first addresses the alternative assessments suggested by the Report and then the economic impacts.

While I cannot recommend an emergency increase in catch limits based on the Report, I will continue to work with Massachusetts, other New England states, and the New England Fishery Management Council to prioritize, gather, and analyze additional biological and economic data associated with the groundfish fishery. The final section of this letter suggests a path forward and key steps that we can take together to address the economic and management concerns raised in your letter and in ongoing discussions with your staff.

Alternative Assessments

The Magnuson-Stevens Act requires that all Fishery Management Councils receive recommendations for ACLs from the Councils' Scientific and Statistical Committees (SSC). The current New England groundfish SSC recommendations were based on the stock assessments provided by the 2008 Groundfish Assessment Review Meeting (GARM III).

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Benchmark stock assessments for 19 groundfish stocks were prepared, presented, and independently peer reviewed at this meeting. Representatives of the fishing industry, the New England states – including Massachusetts – and the Council participated in GARM III. Benchmark assessments are the most robust and in-depth assessments performed for fishery stocks, and employ the best available scientific models and data. Subsequent to GARM III, NMFS scientists updated assessments for two of these stocks. Results of these peer-reviewed assessments were accepted by the Council and its SSC for use in management through a public process. These assessments provide the best available science for the Council and NMFS to use in managing the Northeast groundfish fishery, and the Magnuson-Stevens Act compels their use as a basis for quota setting.

The alternative assessments suggested in the Report were previously considered either as part of the GARM III stock assessment process, or by the Council and its SSC in setting ACLs in this fishery. This Report does not provide any new scientific information that would justify overturning the SSC's determinations that the best available science was used in formulating the current ACLs. Rather, the Report proposes the adoption of previously evaluated approaches that were rejected by the SSC. Consequently, NMFS cannot consider this information either as new or as appropriate to replace the peer-reviewed assessment currently accepted as the best available science as required by the Magnuson-Stevens Act. To do so would require overturning the determinations of the SSC and the Council.

The Report proposes use of smaller buffers to allow an increase in Groundfish ACLs. There is no basis for decreasing the scientific and management buffers by setting the ACLs equal to the overfishing level as suggested in the Report. This approach is counter to the intent of the Magnuson-Stevens Act. The Council developed these buffers based on advice from its SSC as the most appropriate way to ensure a reasonable expectation of rebuilding. The Council and SSC specifically reviewed and endorsed the GARM III recommendations on buffers. The Report's suggestion to base rebuilding objectives on direct estimates of maximum sustainable yield is also contrary to the recommendations of the GARM III peer review. This peer review determined that direct estimates of Maximum Sustainable Yield were unlikely to establish catch limits that met required rebuilding targets.

NMFS will continue to work with fishermen, state resource management agencies, the academic community, and other interested parties to identify, collect, and review new biological information on stocks. For example, in addition to new stock assessment work that justified action on pollock, spiny dogfish, and skates, NMFS is currently working on benchmark assessments for the three winter flounder stocks, which will be reviewed at the Northeast Regional Stock Assessment Workshop in June 2011. In addition, during the week of February 14, 2011, NMFS will facilitate a national workshop on the science needed to support implementation of the Magnuson-Stevens Act, with particular emphasis on the determination and implementation of ACLs. NMFS will host the workshop jointly with the regional Fishery Management Councils and invite nationally recognized experts to attend.

Economic Impacts

The Report addresses the economic impacts of the new management measures on the Commonwealth's groundfish fishery by looking at the number of active vessels in the groundfish fishery and the revenue generated by those vessels. The Report states that for the first 5 months of the 2010 fishing year, two-thirds of the Massachusetts groundfish fleet was inactive while more than half of the fleet had not fished at all. This represents an additional 17 inactive vessels compared to the same period in 2009. NMFS data indicate that in past years, typically, only about half of the Massachusetts vessels registered in sectors fished for groundfish between May and September. For 2010, 81 percent of the vessels in the Commonwealth that fished for groundfish in the first 6 months of 2009 have fished in 2010.

There are positive signs from the fishery for the first 6 months of the fishing year. For example, the Report indicates that total revenue to Massachusetts vessels increased by 21 percent for the first 5 months of the 2010 fishing year compared to the average total revenue for the years 2005–2009. Also, the number and proportion of active Massachusetts' sector vessels earning more than \$100,000 in the first 5 months increased from 2009 to 2010 (from 44 percent to 51 percent).

There may be a number of reasons why fewer vessels have fished thus far, including whether owners with multiple vessels fished with fewer vessels, or vessel owners or sectors waited to fish later in the fishing year to maximize revenue. It is also likely that some vessels that have not landed groundfish are receiving revenue from leasing their groundfish allocation or have been fishing in other fisheries.

The Report implies that sector management concentrates revenues among a relatively small number of vessels. It estimated that the share of revenue earned by the top 10 percent of vessels increased from 57 percent to 64 percent in 2010 compared to 2009. These percentages vary from year to year and are only slightly higher than percentages from some earlier years (e.g., top 10 percent of vessels earned 60 percent of revenue in 2005 and 62 percent in 2007). Therefore, it is not clear that this shift is directly related to recent changes to the management program.

As outlined in the Secretary's letter, we have evaluated your request for a disaster determination under Sections 312(a) and 315 of the Magnuson-Stevens Act. At this time, the information you have provided in the Report is insufficient to warrant a positive determination. However, how sector management is affecting individual fishermen and communities is worth further research within Massachusetts and other states. We want to work with you and the Council to analyze economic data more closely, including information on quota leasing patterns and fishing behaviors, and to identify any fishermen and communities that may be in need of targeted assistance. You may wish to resubmit a request if we are able to identify those targeted needs.

Finally, the Report raises concerns of a "non-functioning market for trading and leasing quota." We agree that open trading is critical to the effectiveness of this program. We looked into the trading to date; nearly 500 leasing transactions, representing more than 27 percent of landings, occurred in May through November, involving all stocks and all sectors. Recognizing that the quota market is relatively new, it may take time to develop a robust market and yield an

appropriate price. NMFS is looking at ways to facilitate the efficiency and transparency of this market by making information on leases and trades available to the public, consistent with confidentiality requirements. This is another area where further discussion and joint research could yield both a better understanding of trends and the identification of any appropriate corrective actions.

Steps Forward

Going forward, I would like to have our staffs agree to work together with a focus on four key areas:

- 1) Identifying, with input from fishermen and the Fishery Management Council, any new biological information that could be incorporated into the next stock assessments that may justify additional expedited action on catch limits;
- 2) More analysis of economic data, including consolidation of catch, quota leasing patterns, and seasonal fishing behaviors to identify specific fishermen and communities that may be in need of targeted assistance;
- 3) Identifying specific courses of action, including the use of existing permit bank funds, to facilitate the permit market for sector transactions that will benefit disadvantaged fishermen; and
- 4) Working with the New England Fishery Management Council to address continued concerns with permit consolidation, as well as the new provisions concerning international agreements which may offer some relief for Georges Bank yellowtail flounder quotas.

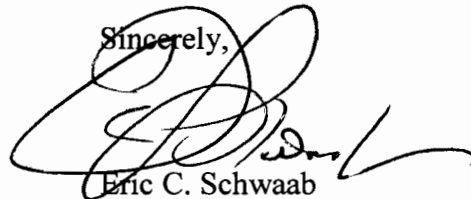
NMFS is also conducting a regional assessment and management review of the fishery management process in New England, focusing on the relationships among the New England Fishery Management Council and NOAA's Northeast Regional Office and Northeast Fisheries Science Center, as well as other management authorities such as the states. The review incorporates other factors affecting the effectiveness of those entities in carrying out their responsibilities under the Magnuson-Stevens Act. NMFS contracted with the Touchstone Consulting Group to conduct approximately 200 interviews of fishermen, Council members, managers, and others engaged in the fishery management process in New England. To date, they have completed approximately 50 interviews and expect to finish the interviews in February 2011. We expect Touchstone to report to us the information gathered in these interviews this spring and a final public report in late 2011, approximately 1 year after initiation.

NMFS is moving forward with the science workshop that Secretary Locke committed to in his previous letter. The workshop, which will be held in early 2011, will focus on many of the science issues referenced in your letter and the Report. We expect to use the results of that workshop along with the management review to continue to improve the fishery management process and we look forward to your continued support of those processes.

Finally, I want to note another important step forward. I am pleased that on January 4, 2011, the President signed into law the International Fisheries Agreement Clarification Act. This effective legislation will help level the playing field between the United States and Canada for important fisheries. This legislation paves the way to reopen discussions with Canada that should lead to increased catch limits for Georges Bank yellowtail flounder. NMFS is immediately initiating discussions with our Canadian counterparts and the Council to move forward.

In conclusion, I look forward to working with your staff to gather and review any additional information to help address possible economic impacts of recent management actions in this fishery and to help fishermen and fishing communities across New England while important stock rebuilding continues and the sector-based management proceeds. I will be reaching out to your staff to set up a follow-up meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric C. Schwaab', is written over the word 'Sincerely,'.

Eric C. Schwaab
Assistant Administrator
for Fisheries