



Center For Sustainable Fisheries

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A science based non-profit organization devoted to the conservation of our fisheries resources and the economic development of our fishing communities.

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January 13, 2014

The Honorable Penny Pritzker
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, D.C. 20230

Dear Secretary Pritzker:

I hope this letter finds you well. The Center for Sustainable Fisheries writes to you today to urge you to issue the requested financial assistance to the New England groundfish fishery and to also request that you implement an emergency action to conduct an experimental yellowtail flounder fishery and use the information from the experimental fishery to increase the precision and remove bias from the disputed yellowtail assessments.

As you know, in September of 2012 the New England groundfish fishery was declared an Economic Disaster. The declaration was expected. From as early as 2010 Congressional members, Governors, and public officials have written to the Department of Commerce to point out the dire financial situation of groundfish fishermen, ask for a disaster declaration, and propose solutions to help alleviate the financial struggles of these men, women, and their families.

The accuracy and reliability of groundfish stock assessments utilized to determine the Annual Catch Limits (“ACLs”) have been called into question and disputed by fisheries experts and fishermen. Many believe that the low allocations that result from the assessments are the primary cause of the Economic Disaster.

On multiple occasions, the New England Fisheries Management Council (“NEFMC”) has requested that your office exercise its authority under the Magnuson-Stevens Act (“MSA”) Section 312(a)(2) to provide financial assistance to the New England groundfish fishery to avert the disaster.

Upon declaring a fishery disaster, the Secretary has broad authority to alleviate the disaster by taking “any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such fishery.” MSA § 312(a)(2). The MSA also authorizes the Secretary to “implement any information collection . . . program” if “the Secretary determines that additional information is necessary for developing, implementing, or monitoring a fishery management plan.” MSA § 402(a)(2).

One means to collect more information is through cooperative research and emergency regulations. “If the Secretary finds an emergency . . . exists . . . , he may promulgate emergency regulations . . . necessary to address the emergency.” MSA § 305(c)(1). Such emergency regulations “shall . . . remain in effect for not more than 180 days . . . and may be extended . . . for one additional period of 186 days.” MSA § 305(c)(3)(B). The Secretary is authorized to issue experimental fishery permits as part of its cooperative research program and in compliance with regulations promulgated with the Councils. MSA § 318(a),(d).

In New England, as you know, yellowtail stock assessments are highly disputed and ambiguous. Post stock assessment surveys completed by the New England Fisheries Science Center (“NEFSC”) and the University of Massachusetts, Dartmouth’s School of Marine and Science Technology (“SMAST”) have revealed that there is significantly greater biomass than the National Oceanic and Atmospheric Agency’s (“NOAA”) stock assessments. These surveys, completed subsequent to the issuance of the stock assessments, show that yellowtail is more abundant than indicated in NOAA’s assessments. This means that the allocations to the fishing industry are too low. With the various disputes and conflicting data, good scientific practice and the management scheme dictates that further information collection and analysis on the groundfish stocks must be completed.

Further information collection is necessary to develop the allocation of yellowtail in both the groundfish and scallop fishery management plans, to ensure compliance with the MSA’s National Standards, and to alleviate an emergency situation that has the potential to result in a “similar failure in the future.” MSA § 312(a)(2). The Economic Disaster has now risen to a level of an “emergency situation” where “emergency regulations [are] necessary to address the emergency.” MSA § 305(c)(1).

For both the groundfish and scallop fisheries current management strategies run the risk of causing two potentially irreversible consequences. First, the groundfish fleet and industry will continue to diminish and disappear. And second, low allocations in the groundfish fishery lead to wasteful increases of yellowtail bycatch in the scallop fishery. Increasing bycatch is severely jeopardizing the future feasibility of the scallop industry’s ability to harvest scallops.

The Center for Sustainable Fisheries proposes that an emergency regulation be promulgated to open an experimental fishery to collect information on yellowtail stocks as a cooperative research program. Under our proposal, a reasonable and larger percentage of yellowtail will be harvested by a limited number of boats. Experimental fishing permits (“EFP”) would be issued via the experimental permit application process laid out in 50 C.F.R. 600.745. Boats holding an EFP would be allowed to fish in a normal manner under the higher allocation. As a means to provide financial support for an ailing fleet, the catch would be allowed to be sold. Selected fishing vessel owners would agree to more intensified log book coverage and port sampling.

An experimental fishery will provide several advantages, including, but not limited to, providing additional data, providing financial support for an ailing groundfish fleet, ensuring National Standard 2’s “best scientific information available,” (MSA § 301(a)(2)), requirement is satisfied. Additionally, there is the potential that the additional data and assessments will lead to increased allocations for groundfish fishermen, reduce bycatch in the scallop fishery, and alleviate the Economic Disaster in the New England groundfish fishery.

There is little risk with implementing the experimental fishery because the emergency regulation of an experimental fishery would be carefully monitored and remain in effect for merely 180 days. After the 180 days, based on the additional information collected, an improved analysis of yellowtail can be evaluated. The evaluation will determine whether allocations should remain at their current levels or be increased.

Thank you for your consideration of our proposal and your anticipated leadership in resolving New England's groundfish fishery Economic Disaster. We look forward to working with you on our proposed experimental fishery program.

Please have your executive assistant contact Kate Kramer, our Chief Operating Officer, at kkramer@centerforsustainablefisheries.org or at 508-992-1170. In the alternative, you can reach me at briancsf@comcast.net, so we can discuss our goals and any questions you may have.

Sincerely,

Brian J. Rothschild
President and Chief Executive Officer