Discretion Over Scientific Research Activities and Scientific Research Catch

Northeast Regional Office, Sustainable Fisheries Division

Discretion over scientific research vessels conducting scientific research activities

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) expressly excludes from the definition of fishing, and therefore, the purview of MSA, a "scientific research activity which is conducted from a scientific research vessel." A Letter of Acknowledgement (LOA) acknowledges that a scientific research vessel conducting a scientific research activity is not subject to MSA regulation. LOAs are not a permit and do not authorize any activity, nor are they required. Researchers are encouraged to apply for, and obtain, an LOA from the Northeast Regional Office to ensure NOAA's National Marine Fisheries Service (NMFS) concurs that the vessel conducting the research is not subject to MSA regulation. However, NMFS has no authority to restrict or condition the activities of scientific research vessels conducting scientific research.

When reviewing an LOA application, the Regional Administrator, or designee, shall consider the following: The merits of the individual proposal and the institution(s) involved; whether the proposed activity meets the definition of scientific research activity; and whether the vessel meets all of the requirements for a scientific research vessel. If the applicant demonstrates the merits of the individual proposal and institution, and the vessel meets the definition of a scientific research vessel conducting a scientific research activity, the Regional Office acknowledges the research as not being subject to MSA regulations and issues an LOA. Activities conducted outside the scope of the Scientific Research Plan would not be considered a scientific research activity and would be subject to MSA and other Federal regulations and requirements.

Sale of fish caught by scientific research vessels conducting scientific research activities

The sale of fish taken and retained by a scientific research vessel conducting scientific research is not fishing or commercial fishing as defined by MSA, and the sale of such fish does not change the scientific research activity to fishing under the MSA. Experimental fishing regulations and policies do not prohibit the sale of such fish. Nevertheless, the Northeast Regional Office is sensitive to issues relative to the sale of catch. As such, LOA applications must indicate whether scientific research catch will be sold. If catch will be sold, the project activities and objectives must be clearly consistent with experimental fishing regulations, and that the scope of the research must be consistent with achieving the research objectives.

Prior to 2010, there was limited landing of scientific research catch by vessels operating under an LOA in the Northeast Region, but that has changed recently. There are several factors that have caused this. Foremost, national experimental fishing regulations were amended by NMFS in late 2009, which established conservation engineering as a scientific research activity. This change was made in response to industry and research community requests to make authorization and/or acknowledgment of research activities more timely. Such studies are more apt to land catch due

to the nature of the research. Currently, most projects operating under an LOA that intend to sell fish are conservation engineering projects.

In addition, due to the constraints and accountability measures associated with Annual Catch Limits (ACLs) that are now required under MSA, there has been increased interest in ways to conduct research such that it does not have negative implications for fishing operations, which operating under an LOA provides (see Northeast Region Policy for Accounting for Research Catch). In other words, such that catch that would have been counted against ACLs is not attributed to the ACLs.

Further, the Regional Office has been more consistent in communicating regulation and policy regarding the disposition of the scientific research catch, and whether it can be sold, which was previously less clear.

Summary of sold research catch

The following table summarizes fish that have been sold be vessels operating under an LOA during the 2010 and 2011 Northeast multispecies fishing years (May 1 - April 30). These data were identified using dealer reports, vessel monitoring system declaration data, and vessel trip reports. The Regional Office has implemented a quota monitoring process so that scientific research catch is not incorrectly applied against a fishery quota, such as an Annual Catch Entitlement or state quota.

SPECIES	2010 WEIGHT (lb)	2011 WEIGHT (lb)
ANGLER (MONKFISH)	2,416	139
BLUEFISH	51	20
BUTTERFISH	2,975	4,511
COD, ATLANTIC	102,016	15,159
FLOUNDER, WINTER	280	17
FLOUNDER, SUMMER	112	459
FLOUNDER, WITCH (GREY SOLE)	2,412	642
FLOUNDER, YELLOWTAIL	7,693	2,804
FLOUNDER, AMERICAN PLAICE	5,779	1,082
GOLDEN TILEFISH	-	3
HADDOCK	3,658	23
HAKE, RED	660	2,459
HAKE, WHITE	96	0
HAKE, SILVER	13,929	-
HAKE, SILVER (UNCLASSIFIED)	1,607	4,239
HERRING, ATLANTIC	50	-
JOHN DORY	-	4
MACKEREL, ATLANTIC	-	596
OCEAN PERCH (REDFISH)	100	-
POLLOCK, ATLANTIC	336	48
SCUP	65	2,000
SEA BASS, BLACK	-	123
SKATES	9,203	1,271
WEAKFISH	-	6
LOBSTER, AMERICAN	4,534	-
SQUID (LOLIGO)	200	437

Overview of active project's that are selling, or intend to sell, research catch

Title	Institution	Study Start Date	Study End Date	Sea Days
Bycatch reduction of Southern New England winter flounder using a large-mesh belly trawl	University of Massachusetts, Dartmouth	1-Apr-11	30-Jun-11	3
Testing of the rope separator haddock trawl on Georges Bank	University of Massachusetts, Dartmouth	1-May-11	30-Jun-11	15
Assessing the performances of a modified topless flounder net	Gulf of Maine Research Institute	1-May-11	30-Jun-11	10
Haddock and flounder behavior near regular and floating bridles and its application in reducing flounder catch on Georges Bank	University of Massachusetts, Dartmouth	1-May-11	31-Aug-11	8
Testing a detaching codend within a groundfish trawl net	Massachusetts Division of Marine Fisheries	1-Mar-11	30-Sep-11	
Eastern Gulf of Maine sentinel fishery program	University of Maine	9-May-11	31-Oct-11	60
A method to reduce butterfish retention in the offshore Loligo squid fishery through the use of a bycatch reduction device	Cornell University - Cooperative Extension	1-Jan-11	31-Dec-11	26
Spiny dogfish habitat utilization and interspecies competition	University of New England	1-Jun-11	30-Mar-12	24
The immediate and short-term post-release mortality of species in the Northwest Atlantic skate complex captured by gillnet and otter-trawl	University of New England, New England Aquarium	3-Sep-08	30-Jun-10 (extension request under review)	74