



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

December 4, 2008

Patricia Kurkul, Regional Administrator
NOAA/NMFS Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

RE: Review of Herring Midwater Trawl Access to Closed Area I

Dear Pat:

Regulations specified in CFR Section 648.81(a)(2)(iii) authorizes access to Multispecies Closed Area I for vessels fishing with midwater trawl gear consistent with the provisions outlined in §648.80(d). The regulations specify that:

“...the Regional Administrator shall review information pertaining to the bycatch of regulated NE multispecies and, if the Regional Administrator determines, on the basis of sea sampling data or other credible information for this fishery, that the bycatch of regulated multispecies exceeds, or is likely to exceed, 1 percent of herring and mackerel harvested, by weight, in the fishery or by any individual fishing operation, the Regional Administrator may place restrictions and conditions in the letter of authorization for any or all individual fishing operations or, after consulting with the Council, suspend or prohibit any or all midwater trawl activities in the closed areas” (§648.81(a)(2)(iii)).

At the November 18-20, 2008 New England Fishery Management Council meeting, concern was expressed about recent bycatch events in Closed Area I involving midwater trawl vessels and, in particular, bycatch of haddock. As a result, the Council approved the following motion:

“That the Council request NMFS review recent herring midwater trawling observer data from groundfish Closed Area I to determine if Council requirements for continued access have been met. If criteria have not been met, access should be prohibited.”

The Council passed a subsequent motion to establish criteria for midwater trawl access to groundfish closed areas in Amendment 4 to the Atlantic Herring Fishery Management Plan (FMP). However, as you are aware, the timeline for completing and implementing management measures in Amendment 4 extends through 2009 and 2010. The Council has determined that immediate concerns about groundfish bycatch in Closed Area I should be addressed by NMFS in a more timely manner consistent with the existing regulations pertaining to midwater trawl vessel access to the groundfish closed areas.

Please consider this request and contact me if you have any further questions. The Council awaits your Agency's review and response as it continues to develop management alternatives for Amendment 4 to the Herring FMP.

Sincerely,

Paul J. Howard
Executive Director

cc: Council members

Observed Haddock Bycatch in the Closed Areas in the Midwater Trawl Herring Fishery

Audited observer data was examined for the period May 2004 through October 2008. Over that time, 40 tows were observed in Closed Area I, from 16 separate observed herring trips. Overall, the audited data for this period indicates that the threshold of groundfish bycatch greater than 1% of the combined catch of herring and mackerel, as specified at 50 CFR 648.81(a)(2)(iii), was exceeded at the trip level twice, and, at the tow level, eight times. Additional details are provided below. There were no observer reports of the 1% threshold being reached, at either the trip or haul level, in any other groundfish closed area during this time period.

Haddock Bycatch in Closed Area I (1% threshold) May 2004 through October 2008

Fishery Level

- A total of 57,560 lb of haddock bycatch was observed on herring trips into Closed Area I during the 4.5 year period.
- This is approximately 0.56% of the 10,327,678 lb of observed herring and mackerel catch from these trips.
- Approximately 84% (48,098 lb) of this observed haddock bycatch was during the month of October.

Trip level information

- 16 trips had observed tows in Closed Area I.
- **2 trips exceeded the 1% threshold on the trip level (2.11% and 2.85%). Both trips were during the month of October**
- 3 other trips approached but did not exceed the 1% threshold (0.80 %, 0.82%, and 0.90%). Two of these trips were during the month of October and one during the month of August.

Tow level information

- A total of 40 tows were observed in Closed Area I.
- 22 tows (55%) had some level of observed haddock bycatch (> 0 lb).
- 8 tows (20%) from 6 separate trips had observed haddock bycatch greater than 1% of the combined catch of herring and mackerel.
 - Observed bycatch levels in these tows ranged from 1.05% to 9.69%.
 - 7 of these tows were observed during the month of October and 1 during the month of August.