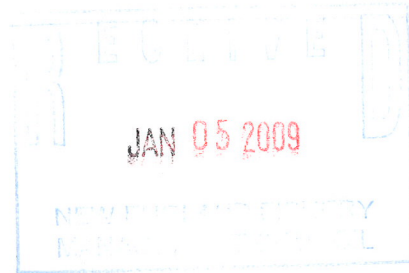




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

#5

DEC 30 2008



Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Re: Review of Midwater Trawl Access to Closed Areas

Dear Paul:

Thank you for your letter of December 4, 2008, reiterating concerns that were raised at the November Council meeting about haddock bycatch in the midwater trawl herring fishery. As I mentioned at the Council meeting, I have directed my staff to review information from NMFS's Northeast Fisheries Observer Program (NEFOP), as well as from other sources, to determine if the threshold of 1% bycatch of regulated multispecies by midwater trawl vessels in the groundfish closed areas has been exceeded. The reports of bycatch discussed at the November meeting were based upon preliminary unaudited data collected by the NEFOP. The current review will use the audited NEFOP reports as well as data from other sources. This work will analyze recent bycatch in Closed Area I, as well as examine groundfish bycatch in the other closed areas, and any seasonal or spatial patterns of regulated multispecies bycatch observed in these closed areas over the past few years.

As you point out in your letter, if I determine that the threshold has been or is likely to be exceeded, I have regulatory authority to place restrictions or conditions on the letters that authorize vessels to fish with midwater trawl gear in the Gulf of Maine/Georges Bank Regulated Mesh Area. Upon conclusion on this review, I will notify the Council of NMFS's findings, including any determination that modification to the letter of authorization for one or more vessels is appropriate to address bycatch of regulated groundfish in the closed areas.

Sincerely,

Patricia A. Kurkul
Regional Administrator



cc: US Council (1/5), TN



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
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,

A handwritten signature in black ink that reads "Paul". The signature is written in a cursive, flowing style.

Paul J. Howard
Executive Director

cc: Council members