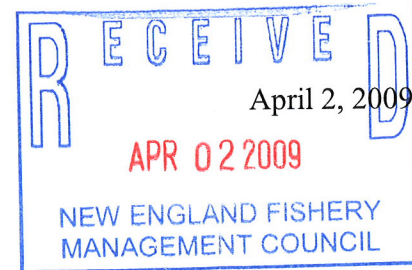




## CONSERVATION LAW FOUNDATION

*Via electronic mail*

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



Dear Mr. Howard:

I am writing on behalf of the Conservation Law Foundation regarding the issue of midwater trawling for herring in groundfish closed areas. We understand that this issue will be discussed at the Council's April 8, 2009 meeting, following up on the Council's November request that "NMFS review recent herring midwater trawling observer data from groundfish Closed Area 1 to determine if Council requirements for continued access have been met." We agreed then and continue to agree with the Council's position that "[i]f criteria have not been met, [midwater trawl vessels'] access should be prohibited."

The Council's action in November was a direct result of clear evidence of significant bycatch of groundfish, specifically haddock, in October by the midwater herring trawl fleet in Closed Area 1. Since that time, it is our understanding that Regional Administrator Kurkul has confirmed that the amount of haddock bycatch alone well exceeded the 1% multispecies bycatch limit previously set by the Council. Accordingly, the Council should request, and the Regional Administrator agree, to revoke the Letters of Authorization previously granted the midwater trawl vessels and preclude them from access to the closed areas.

In making this request, CLF is asking only that the midwater trawl vessels be held to the same standards as all other fishermen in New England seeking access to groundfish closed areas. Participants in these fisheries are denied access to groundfish closed areas until they establish, under the rigorous standards required to obtain an Exempted Fishing Permit (EFP), that their fishing activities will not result in any significant groundfish bycatch.<sup>1</sup>

The Council and its Herring Committee are making good progress in their effort to develop management measures under the Amendment 4 process, including developing criteria that would guide any future access to groundfish closed areas. However, until those criteria are in place, it is only fair to hold the midwater trawl vessels to the same standards that apply to all other fishermen that seek access to groundfish closed areas.

<sup>1</sup> See 50 C.F.R. § 648.12.

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CONSERVATION LAW FOUNDATION

Thank you for your attention to this important matter.

Sincerely yours,



Sean Mahoney  
Vice-President and Director  
Maine Advocacy Center

Cc NEFMC  
Mr. Gene Martin, Deputy General Counsel, NMFS