

#4



Paul J. Diodati
Director

Commonwealth of Massachusetts

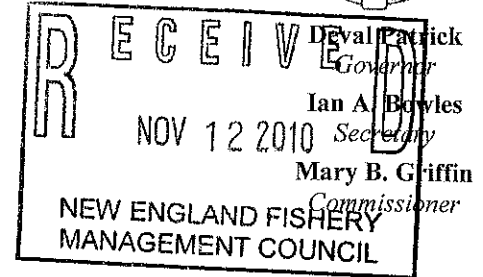
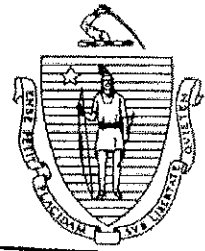
Division of Marine Fisheries

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TO: ASMFC Sea Herring Section
FROM: David Pierce, Deputy Director
DATE: November 7, 2010
RE: HADDOCK BYCATCH CAP: DMF RECOMMENDATION

We have received an important letter and request from NORPEL – the sea herring processing plant in New Bedford from which a large segment of the mid-water single and pair trawl fleet operates. DMF’s relationship with NORPEL has been productive for many years – a relationship fostered by our presence in their plant for dockside sampling of sea herring landings and our working with NORPEL and SMAST to develop a project involving real-time at-sea reports of river herring bycatch and communication with vessels. This project will enable fishing vessels to identify and avoid river herring hotspots. This bycatch avoidance strategy was first offered by NORPEL, and the Massachusetts Marine Fisheries Institute (DMF and SMAST) lent its support with river herring protection being a high priority issue.

NORPEL is requesting immediate relief from the consequences of the NEFMC haddock bycatch cap implemented through the Council’s Framework 43 to the Multispecies Groundfish FMP in 2006. Being informed by NMFS that the herring fisheries’ bycatch of haddock is over 80% of the total (152,360 of 189,597 pounds) and being warned by NMFS on October 27 to avoid haddock else the majority of the Gulf of Maine and Georges Bank would be closed until May 1 of next year, NORPEL has predicted bankruptcy of “much of the fishery participants” especially if this closure occurs that also would effectively prohibit mackerel fishing on Georges Bank fishing grounds.

NORPEL requests an increase in the cap from 0.2% of the haddock TAC to 2% based on increased observer coverage of the herring fleet. The 0.2% was based on an assumed no more than 20% coverage of the fleet. Coverage appears to be greater than 20% at this time with 100% coverage in Groundfish Closed Area I on Georges Bank. Furthering its argument NORPEL has noted that the directed haddock fishery is catching less than 6% of its allowable haddock catch from Georges Bank; therefore, concern about small amounts of haddock bycatch in the herring fishery should be re-addressed.

We bring NORPEL’s request to the Section’s attention because it is very relevant to interstate management of sea herring and Addendum II to Amendment 2 in which the haddock bycatch cap is

referenced (page 20 Option 2: Haddock Catch Cap Accountability Measure). ASMFC is accommodating the NEFMC through this Addendum; therefore, ASMFC must be informed if the cap is unnecessarily restrictive and jeopardizes a major portion of the herring fleet and processing plants. The cap could have great repercussions for ASMFC management of sea herring in cooperation with the Council.

As partners in sea herring management and having taken on the responsibility of slowing landings through state rules thereby preventing early closures of the Area 1A fishery, it is appropriate for the Section to involve itself in this haddock bycatch cap issue. Consequently, we recommend ASMFC request the Council determine if the bycatch cap can be increased due to increased observer coverage in 2010 and expected for next year.

We expect that with the Area 1A closure scheduled for Monday, vessels will shift back to Georges Bank, and the cap will be caught soon thereafter thereby prohibiting herring fishing except in the southern New England/Mid-Atlantic area for about five months to the detriment of the pelagic fisheries for herring and mackerel.

We also recommend the Section ask if the boundary of the area affected by the bycatch cap – most of the Gulf of Maine and all of Georges Bank continues to be justified.

Much has changed since the haddock bycatch cap was adopted. With the pleading from NORPEL with its prediction of bankruptcy and with herring being especially important as a critical source of lobster bait, we believe it is essential for ASMFC to make these reasonable requests.

cc

Paul Diodati, Director

NORTHERN PELAGIC GROUP LLC

4 Fish Island
New Bedford, MA 02740 USA
Telephone +1.508.979.1171
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From the Desk of: Brady Schofield, President

October 11, 2010

Representative Barney Frank
Mayor Scott Lang, City of New Bedford
Brian Rothchild, Mayor's Council on Fisheries
Paul Diodati, MA DMF
David Pierce, MA DMF

RE: Emergency Action needed to save Sea Herring Fishery from closure due to haddock catch cap

Gentlemen,

We face a premature closure of the sea herring fishery due to an outdated, artificially low haddock bycatch cap on the herring fishery, resulting in lost revenues of approximately worth \$12 million ex-vessel and \$35 million ex-processor.

We are in need of your immediate assistance to petition NMFS NERO to review, and possibly adjust upwards for the remainder of 2010-2011, the haddock bycatch cap in the sea herring fishery, established in 2004 through FW 43 to the Multispecies FMP.

Since May 2010, when we requested this issue be considered in the current groundfish framework action, the NEFMC has refused to help us review this cap. As a result of this inaction, we are now in need of your support for Emergency Action. I have attached the latest NMFS NERO quota report which indicates the haddock catch cap (effective May 1, 2010-April 30, 2011) is more than 80% consumed due to a handful of recent large bycatch events by two vessels.

The lost value due to an imminent closure of Georges Bank and the Gulf of Maine herring fishery due to reaching our miniscule haddock catch cap will be 40,000 mt of herring worth \$12 million ex-vessel and \$35 million in ex-plant value. This is nearly half the value of the 2010 fishery.

The catch cap was established in 2004, and the herring fishery was allocated 2% of the haddock TAC as bycatch. However, due to very low at sea observer coverage at the time (<5%), the NEFMC adjusted the cap to 0.2% to compensate for the potential of unreported haddock bycatch. Now that we have 40% observer coverage throughout the fishery, and nearly 100% on Georges Bank, we are asking for Emergency Action to reconsider the artificially low haddock catch cap.

***Emergency Action request for review of haddock catch cap in herring fishery,
10/12/2010***

Our sea herring fishery is allowed nearly 200,000,000 LBS (90,700 MT) harvest yet we are restricted by a haddock catch cap of 189,597 LBS...the interaction with haddock occurs mainly on Georges Bank, where we have been directed to fish by the NEFMC and NMFS and where we have nearly 100% at sea observer coverage.

The directed haddock fishery is catching less than 6% of its allowable haddock from Georges Bank. In 2009 New England groundfish fishermen could have caught 16 times more haddock than they actually caught. (<http://www.nero.noaa.gov/ro/fso/mul.htm>).

Given the extremely low herring quotas for 2010-2012 resulting from a highly contentious herring stock assessment, a premature shutdown of the herring fishery has the potential to bankrupt much of the fishery participants.

The closure will be in effect until May 2011 and will therefore negatively affect the winter mackerel fishery as well.

For context, the MA-based herring industry (processors and catcher vessels) employs well over 150 residents, and generates millions in tax revenues annually. We supply lobster bait, generate scarce US exports, support shoreside services in New Bedford and Gloucester, and pay local, state and federal taxes. We have supported the MA DMF herring and mackerel portside sampling program since its inception, and through our successful grant application written cooperatively with SMAST, have helped raise funds needed to significantly expand the MA DMF pelagic port sample program. Yet we receive little credit or recognition of this from management bodies.

We are seeking your help to petition NMFS NERO for Emergency Action to review, and possibly increase the haddock catch cap from the current 0.2% to 2.0% of the haddock TAC. This action is justified because it would then reflect the current status of the haddock stock and the current high level of federal observer coverage which ensures the reporting of haddock bycatch in the herring fishery.

Without ITQ for herring and bycatch, the entire industry is jeopardized by the actions of a few. I have attached an October 2008 letter submitted to the NEFMC from a majority of herring limited access permit holders requesting some form of Sector or LAPP be allowed in the herring fishery so we could manage our fishery more sustainably. Our request was rejected by the majority of the NEFMC, just as they have rejected our request for review of the outdated haddock bycatch cap.

Please contact me immediately to discuss what you need from us to support this petition for Emergency Action.

Brady Schofield, President
NORPEL
New Bedford, MA

SEA HERRING – HADDOCK CATCH CAP FACT SHEET

The facts associated with the haddock catch cap are as follows:

- 1) In 2004, an unprecedented haddock year class recruited on Georges Bank and was encountered by midwater herring trawlers. The juvenile haddock looked and behaved in the midwater column like sea herring and was sold as lobster bait. When the Maine DMR sampled the catches, the haddock was found;
- 2) This led to the NEFMC establishing a haddock catch cap in recognition of the herring fishery unavoidably interacting with the huge haddock year class. Known as FW 43, the cap was established based on the recommendation of the NEFSC groundfish biologist who explained that even a 2% cap would not in any way jeopardize the haddock stock. But, Dave Simpson (CT) said that given the low herring fishery observer coverage at the time (< 5%), the bycatch cap should be lower and he proposed 0.2% (no scientific basis);
- 3) Now that at sea observer coverage on the MWT fishery has been nearly 40% the past two years, with nearly 100% coverage on Georges Bank herring fishery there is no biological reason to not revisit the cap and raise it;
- 4) Since 2006-2007, the haddock catch cap (0.2 % of the haddock TAC) has ranged as follows:
 - 2010: 189,000 lbs
 - 2009: 316,000 lbs
 - 2008: 542,000 lbs
 - 2007: 161,000 lbs
- 5) During the same time period, the directed groundfish fishery has landed a fraction of its available haddock quota due to regulatory restrictions that impede their operational efficiency.

October 7, 2008

Paul Howard, Executive Director
Frank Blount, Herring Committee Chairman
New England Fishery Management Council
50 Water Street Mill 2
Newburyport, MA 01950

RE: Alternatives for LAPP to be considered in Herring Amendment 4

Dear Paul and Frank,

As Category 1 Atlantic Herring Limited Access permit holders, we are writing today to urge you to retain the provision for further development of Limited Access Privilege Programs (LAPP, as defined by the reauthorized Magnuson Act) in Amendment 4 to the Herring FMP.

There are approximately 38 Category 1 limited access herring permits, with approximately 25 of these permits active in the fishery. We represent 18 of those active permits. With the O'Hara Corporation also submitting a similar letter to ours, the total is 20 active permit holders in favor of moving forward on further development of LAPP in this amendment. These permit holders are both Purse Seine and MidWater Trawl vessel owners and operators.

We suggest any consideration of LAPP be limited at this time to Management Area 1 where the fleet is capable of catching the entire TAC. Management Areas 2 and 3 have never reached their catch quota and have significant issues that need to be resolved concerning interaction in the mackerel fishery. Because of these issues we feel the consideration of LAPP in Amendment 4 should be strictly limited to Area 1 only.

As Atlantic Herring permit holders with significant historical landings in Area 1, we believe that inclusion of LAPP in Amendment 4, specific to Management Area 1, is needed to allow the fleet to rationalize the existing fishery and so reduce operating costs, improve product quality and reduce conflicts. Please remember our vessels are specially equipped to produce a human food grade product (canned and frozen), in addition to high quality lobster bait.

The current management process for Area 1 has placed the ASMFC State Directors from Maine, NH, and MA in the difficult position of managing the fishery landings through a "days out" process that restricts landings to specific days. This is an awkward attempt to extend the quota well into the fall in order to feed the lobster fishery bait demand in Maine and Massachusetts. The result has been increased closures of the herring fishery, disruption of the markets, lost revenues resulting from inefficient harvesting practices and tremendous conflict between user groups.

In order to comply with the National Standards, we believe there must be a range of qualifying dates included for analysis in the Amendment 4. Our preferred dates for qualifying landings history are January 1, 1993, the starting date for the criteria to qualify for limited access in Area 1, through December 31, 2006, when the Purse Seine only gear restriction in Area 1A was implemented. This range would encompass "historical" as well as "current" participation through and beyond the dates used to determine eligibility for Atlantic Herring Limited Access permits. It also treats both Purse Seine and Midwater Trawl gear type catch histories equitably, as it covers the range of years when Purse Seines dominated the fishery through the advent and more widespread adoption of MidWater Trawls in the fishery (see attached Figure).

We believe the fishery could benefit from Cooperatives, sectors, IFQs or some other form of federally recognized Limited Access Privilege Program. Some Council members and members of the public have been opposed to retaining LAPP options in Amendment 4, purportedly because of the additional work involved to implement such a program. In truth, we have identified functioning LAPP programs in Alaska and the Pacific Northwest fisheries that can serve as "off-the-shelf" models for our herring fishery.

As Category 1 permit holders who consider this a serious issue, we ask you to allow the development of a LAPP specific to Area 1 to proceed in Amendment 4.

Thank you for your consideration.

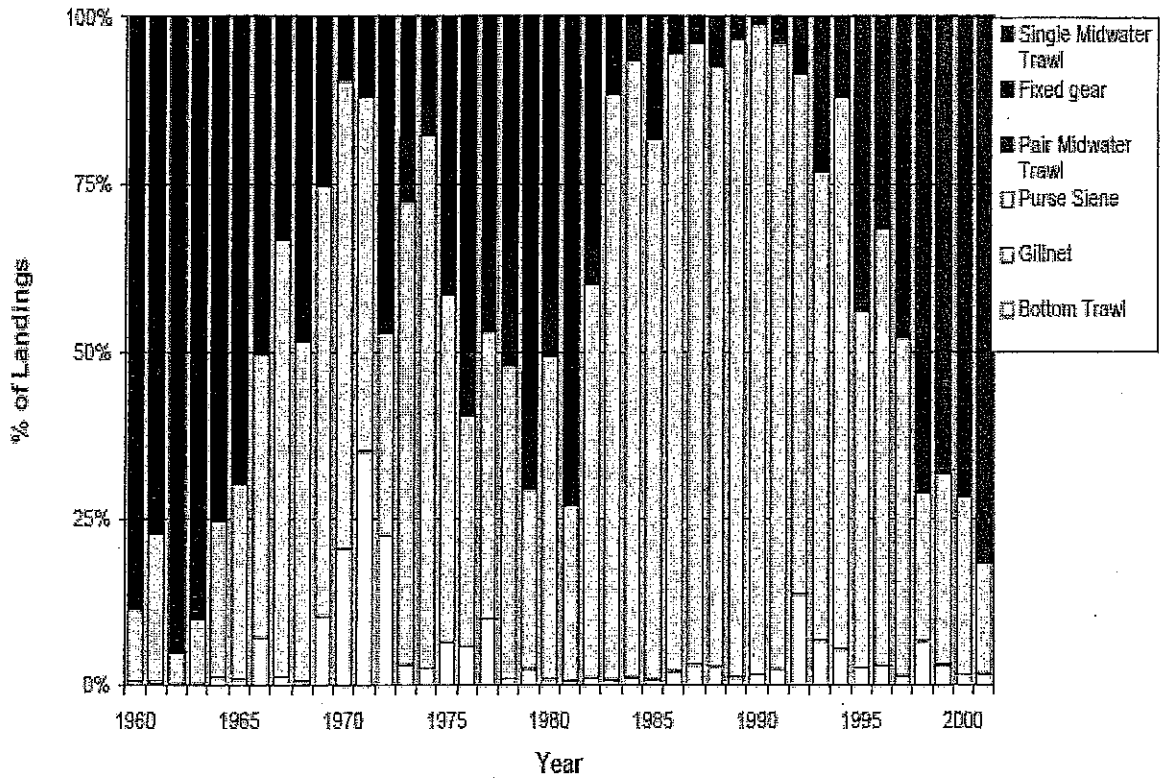
Sincerely,

NEW HAMPSHIRE
F/V Jean McCausland
F/V Isabelle Taylor

MASSACHUSETTS
F/V Endeavor F/V Challenger
F/V Voyager F/V Western Venture
F/V Osprey F/V Dona Martita
F/V Nordic Explorer F/V Western Hunter
F/V Eastern Hunter

NEW JERSEY
F/V Gulf Stream F/V Enterprise
F/V Amy Marie F/V Retriever
F/V Dyrsten F/V Flicka
F/V White Dove II

Figure 1. The percentage of US landings by gear type from all the management areas

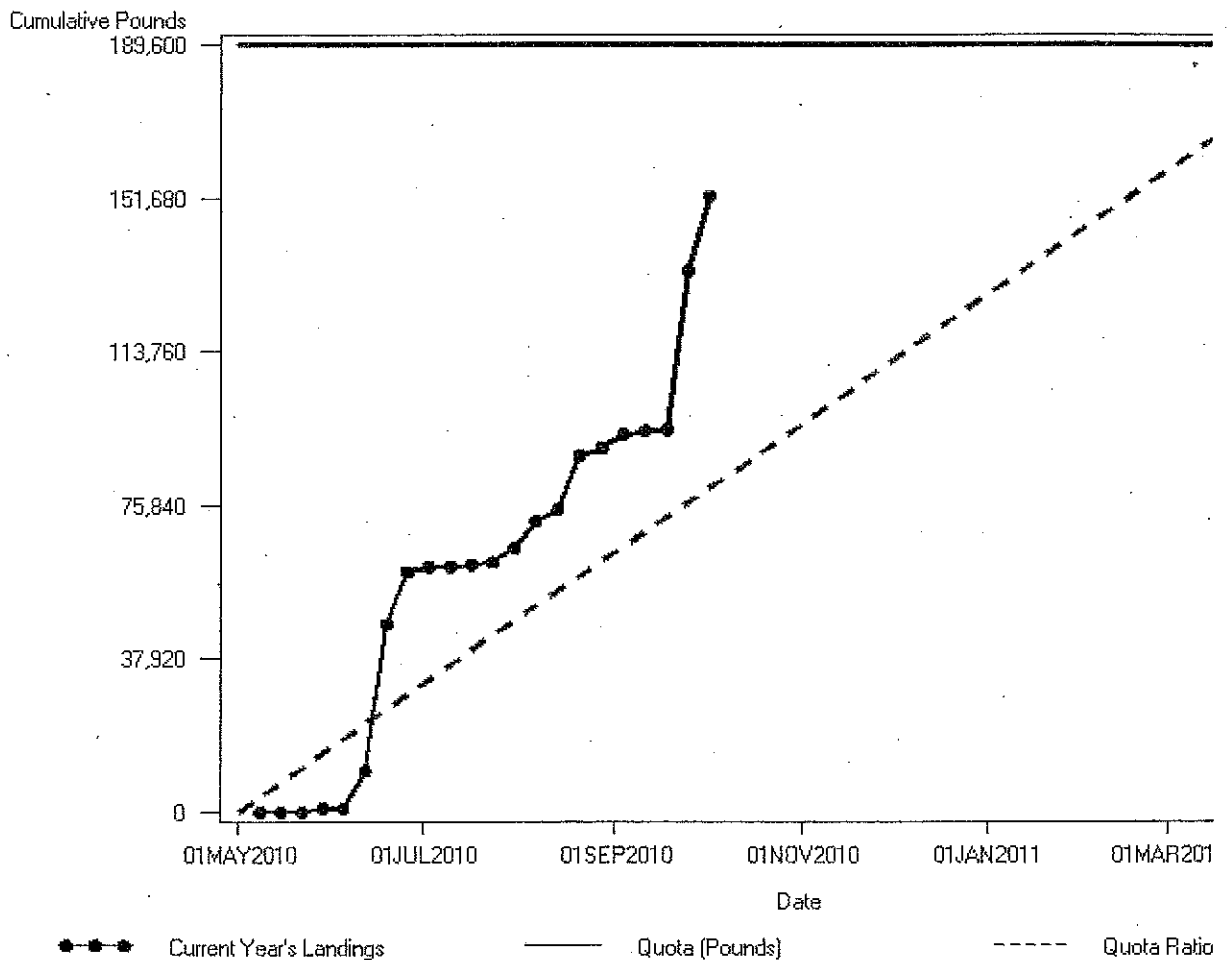


Haddock Catch in Herring Fishery by Limited Access Vessels issued All Areas and Areas 2 and 3 Permits

Quota Period: May 1, 2010 -
Report run on: October 7, 2010
For data reported through: C

Cumulative Landings Summary Report

Live Pounds	Percent of Quota	Quota (Live Pounds)
152,360	80.3	189,597



Notice

The quota period for the haddock bycatch allowance is based on the Northeast multispecies fishery (April 1 - April 30), not the Atlantic herring fishing year (January 1 - December 31). Therefore, if the quota is reached the resulting prohibition on fishing for, possessing, or landing herring in excess of the quota would extend through the end of the fishing year.

These data are the best available to NOAA's National Marine Fisheries Service (NMFS) when this report was compiled. Data for this report may be subject to change.



**National
Oceanic and
Atmospheric
Administration**

Fisheries Service (NMFS) from the following sources: (1) dealers v Reporting to either the Standard Atlantic Fisheries Information Sys Federally Licensed Seafood Dealers Trip Ticket System; (2) NOAA Observer Program, through audited observer reports submitted by tl Fisheries Science Center; and (3) from the NOAA Fisheries Office Enforcement via reports resulting from actual dockside inspections this report are for landings made through October 2, 2010 and may Discrepancies with data from previous reports are due to correction database.