

NMFS finalizes key rule for Atlantic herring fishery



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PROVINCETOWN — The National Marine Fisheries Service finalized a new rule for the Atlantic herring fishery that would require all fish caught inside a critical spawning ground for cod, haddock and other groundfish to be brought onboard and documented by federal observers.

This report is taken directly from a NMFS press release:

A former loophole allowed for the dumping of catch before observers could inspect it, violating the Magnuson-Stevens Act, our nation's primary fisheries law, which requires that all commercial fishing operations are monitored to prevent overfishing.

The rule is the result of a lawsuit Earthjustice filed in December 2009 against NMFS on behalf of commercial fishermen Peter Taylor and Stuart Tolley of Chatham, Mass., and Bob St. Pierre of West Yarmouth, Mass.

"We're pleased NMFS took a hard look at this issue and saw the need for a better understanding of what is normally dumped by these boats," said Tolley. "It's extremely important that the entire catch be monitored."

Herring industrial trawlers were initially banned from fishing in groundfish spawning areas, but in 1998 federal regulators re-opened them to midwater trawlers who claimed their fishing gear would not catch groundfish. This claim proved not to be true, and many fishermen believe that these trawlers significantly contributed to the fragile status of New England's legendary groundfish populations. As a result of significant groundfish bycatch – unwanted dumped fish — documented in 2008 in an area known as Closed Area 1, a protected groundfish nursery area southeast of Cape Cod, protocols were instituted to require all catch to be brought on board the trawlers. The challenged rule issued by NMFS in November 2009, however, contained a surprise loophole that allowed for the dumping of catch before observers could inspect it. This change was not sent out for public comment and contradicted the original rule, which had received overwhelming public support.

The new rule eliminates the loophole that allowed industrial trawlers to dump the fish left in their nets after fish pumps used to bring most of the catch on board were turned off. This change will restore the intent of the original rule to require that all fish be brought on board and accounted for, with limited exceptions for safety and mechanical failure.

"This rule will make it so midwater trawlers fishing in Closed Area I are held to rigorous standards like those that groundfish fishermen face every day," said Ben Martens, policy analyst for the Cape Cod Commercial Hook Fishermen's Association. "We hope that NMFS will continue to see the importance of accounting for all catch and expand the rule throughout the herring fishery."

"We're pleased NMFS provided the opportunity for public input on their proposed exception to the no dumping rule," said Earthjustice attorney Roger Fleming. "This allowed important information to be brought forward and the resulting change will significantly increase the quality of the agency's monitoring program – which is fundamental to good fisheries management."

BACKGROUND

Herring midwater trawlers are industrial fishing ships up to 165 feet long that can hold more than one million pounds of catch. They drag massive nets behind them that are so big that one net is often towed by two vessels in a practice called pair trawling, and the net's small mesh is capable of catching everything in its path.

Because of the large volume of their catch, midwater trawl ships use fish pumps to bring their catch on board while the net is still under the water. These pumps, however, are fitted with grates that keep out larger animals like groundfish, tuna, and marine mammals.

Because the population of groundfish off the coast of New England has been depleted for years, in 1994 nearly all fishing was banned from waters identified as spawning grounds and sanctuaries for cod, haddock and other groundfish. This measure was part of an important plan designed to give groundfish a chance to rebound from overfishing.

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