

Advocacy Requests Consideration of Costs and Alternatives in the National Marine Fisheries Service's Proposed Rule on Maine/Georges Bank Herring Midwater Trawl Gear Authorization Letter

On September 24, 2009, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed comments on the Department of Commerce, National Marine Fisheries Service's (NMFS) proposed rule on the *Fisheries of the Northeastern United States; Modification of the Gulf of Maine/Georges Bank Herring Midwater Trawl Gear Authorization Letter*. A copy of Advocacy's comments can be found at: www.sba.gov/advo/laws/comments.

- For vessels fishing in Closed Area I (CAI), the proposed rule modifies the requirements for midwater trawl vessels that have been issued All Areas and/or Areas 2 and 3 Atlantic herring limited access permits. In order to fish in CAI, midwater trawl vessels with these permits would be required to carry a NMFS-approved observer and to bring the entire catch aboard the vessel, unless specific conditions are met, so that it is available to the observer for sampling. The proposed changes to the Gulf of Maine/Georges Bank Herring Midwater Trawl Gear Letter of Authorization would be effective indefinitely, until changed by a subsequent action.
- NMFS certified that the rule would not have a significant economic impact on a substantial number of small entities. However, after talking to industry representatives, Advocacy concluded that the rule's impacts may be significant. Accordingly, Advocacy advised NMFS that certification may be inappropriate and that an initial regulatory flexibility analysis (IRFA) may be warranted.
- Advocacy recommended that NMFS consider alternatives such as 1) lifting the prohibition on fishing without an observer if no observer is available; clarifying the phrase "unless the fish has been brought aboard the vessel" to prevent fishers from being penalized unnecessarily; giving full consideration to the industry's rewritten version of the dogfish exemption; and allowing a vessel to discontinue fishing in Closed Area I but keep the fish if it has to discontinue a trip due to mechanical failure or safety concern.

For more information, visit Advocacy's webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.