

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

AMENDMENT 5 TO THE ATLANTIC HERRING FMP:

Development of Management Alternatives for the Draft EIS/Public Hearings

DECISION OUTLINE

I. Amendment 5 – Goals and Objectives

GOAL (AMENDMENT 5)

To develop an amendment to the Herring FMP to improve catch monitoring and ensure compliance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA)

OBJECTIVES (AMENDMENT 5)

1. To implement measures to improve the long-term monitoring of catch (landings and bycatch) in the herring fishery;
2. To implement other management measures as necessary to ensure compliance with the MSA;
3. To implement management measures to address bycatch in the Atlantic herring fishery;
4. In the context of Objectives 1 -4 (above), to consider the health of the herring resource and the important role of herring as a forage fish and a predator fish throughout its range.

II. Amendment 5 Catch Monitoring Program – Goals and Objectives

1. **To create a cost effective and administratively feasible program for provision of accurate and timely records of catch of all species caught in the herring fishery;**
 - 1A. Review federal notification and reporting requirements for the herring fishery to clarify, streamline, and simplify protocols;
2. **Develop a program providing catch of herring and bycatch species that will foster support by the herring industry and others concerned about accurate accounts of catch and bycatch, i.e., a well-designed, credible program;**
 - 2A. Avoid prohibitive and unrealistic demands and requirements for those involved in the fishery, i.e., processors and fishermen using single and paired midwater trawls, bottom trawls, purse seines, weirs, stop seines, and any other gear capable of directing on herring;

- 2B. Improve communication and collaboration with sea herring vessels and processors to promote constructive dialogue, trust, better understanding of bycatch issues, and ways to reduce discards;
- 2C. Eliminate reliance on self-reported catch estimates;
- 3. **Design a robust program for adaptive management decisions;**
- 4. **Determine if at-sea sampling provides bycatch estimates similar to dockside monitoring estimates;**
 - 4A. Assure at-sea sampling of at-sea processors' catches is at least equal to shoreside sampling;
 - 4B. Reconcile differences in federal and states' protocols for dockside sampling, and implement consistent dockside protocols to increase sample size and enhance trip sampling resolution.

The objective of the portside sampling program and at-sea monitoring program improvements would be to sample enough landings events to aid in accurate estimations of catch/bycatch in the herring fishery. In addition, samplers may collect important biological information and commercial catch samples in order to support stock assessments and other biological needs.

III. Catch Monitoring Program – Development of Alternatives for DEIS/Public Hearings

A. Summary of Status

Alternatives/options to address the fishery management program and improve quota monitoring/reporting and sea sampling are well-developed. Other alternatives to address observer coverage and portside sampling are developed conceptually but lacking in detail related to administration, oversight, roles/responsibilities, procedural issues, and sampling methods/protocols. Some policy decisions should be made by the Council with respect to these issues. Addressing issues to sampling methods/protocols will require a significant amount of technical work by the Herring PDT and ASMFC.

Alternatives could move forward for further analysis in the Draft EIS if the Council makes some policy decisions with respect to the procedural/administrative issues, and if some of the “major” outstanding issues identified in the following table can be addressed in a timely manner.

B. Outstanding Issues

<p style="text-align: center;">“MAJOR”</p> <p>May preclude completion of Draft EIS; must be addressed during development of range of alternatives and/or early during DEIS preparation</p>	<p style="text-align: center;">“MINOR”</p> <p>Should not preclude development of Draft EIS but must be addressed during DEIS development, prior to approval/public hearings</p>
<p>Category D (Open Access) Permit Holders– Council should clarify catch monitoring provisions and requirements for Category D (open access permit holders)</p>	<p>Options for Observer Coverage Levels– details remain unclear (process, methods for determining coverage levels, responsibilities)</p>
<p>Federal Portside Sampling Program – administration/oversight and roles/responsibilities remain unresolved</p>	<p>Closed Area I Sampling Provisions – Council should determine whether the provisions should reflect the new rule November 30, 2010</p>
<p>Alternatives for Verifying Self-Reported Landings – process/requirements not well-defined; management objectives and data collection/utilization not clear</p>	<p>Maximized Retention Alternative (Experimental Fishery) – administrative/procedural details should be fleshed out</p>
<p>Funding Issues – important for thorough economic evaluation in DEIS; details regarding funding responsibilities and entities that may be subject to catch monitoring program requirements are needed</p>	
<p>Portside Sampling Methodology/Protocols– not likely to preclude development of DEIS, but this is a significant technical issue that will take time to analyze/address during DEIS development</p>	

IV. Measures to Address River Herring Bycatch – Development of Alternatives for DEIS/Public Hearings

A. Summary of Status

River herring management alternatives have been revised/restructured by the Herring Committee based on the Herring PDT’s recommendations summarized in Herring PDT Discussion Paper: *Spatial Management Alternatives to Address River Herring Bycatch In the Directed Atlantic Herring Fishery* (December 2010). However, consideration of additional management options for both the monitoring/avoidance and protection alternatives may be warranted. Additionally, clarification is required regarding the details of provisions that may apply to Category D (open access) permit holders.

Further development of options to establish catch caps for river herring remains unresolved. The Herring Committee discussed the issue at length but did not revisit a tabled motion to eliminate river herring catch caps from further consideration in Amendment 5 (see Draft Herring PDT Discussion Paper: *Developing River Herring Catch Cap Options in the Directed Atlantic Herring Fishery* (December 2010) and the December 20, 2010 Herring Committee/Advisory Panel Meeting Summary for additional information).

B. Outstanding Issues

“MAJOR”	“MINOR”
May preclude completion of Draft EIS; must be addressed during development of range of alternatives and/or early during DEIS preparation	Should not preclude development of Draft EIS but must be addressed during DEIS development, prior to approval/public hearings
Consideration of additional options for monitoring/avoidance alternative? (not required, but range of options must be finalized for DEIS)	Details of Two-Phase Bycatch Avoidance Approach Based on SFC/SMAS/DMF Project
Consideration of additional options for protection alternative? (not required, but range of options must be finalized for DEIS)	Management Coordination (NEFMC/MAFMC/ASMFC) and Overlap with Atlantic Mackerel Fishery
Move-Along Options – not feasible from an administrative/enforcement/compliance perspective; overly burdensome and complicated	
Category D (Open Access) Permit Holders – Council should clarify which management measures will apply to Category D (open access) permit holders	

V. Measures to Address Access to Groundfish Closed Areas – Development of Alternatives for DEIS/Public Hearings

A. Summary of Status

Alternatives are well-developed conceptually and relatively straightforward. Council should clarify the objectives of the management alternatives and the vessels that may be subject to the criteria/provisions established in Amendment 5.

B. Outstanding Issues

“MAJOR”	“MINOR”
May preclude completion of Draft EIS; must be addressed during development of range of alternatives and/or early during DEIS preparation	Should not preclude development of Draft EIS but must be addressed during DEIS development, prior to approval/public hearings
Clarification regarding which herring vessels may be subject to the proposed criteria/provisions	
Consideration of additional alternatives? (not required, but range of alternatives must be finalized for DEIS)	

VI. Measures to Protect Spawning Fish – Development of Alternatives for DEIS/Public Hearings

A. Summary of Status

Management alternatives to address spawning fish are not developed in Amendment 5 at this time. The Herring Committee has only generally discussed this issue. No specific goals/objectives have been identified yet. To advance discussion of the issue, the Herring PDT has prepared a draft Discussion paper (see *Summary of Available Information and Management Approaches to Address Spawning Atlantic Herring* (January 2011) for more information).

B. Outstanding Issues

At this time, no specific management alternatives have been developed in Amendment 5 to address this issue.

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Proposed Adjustments to the Fishery Management Plan (Section 3.0)

Administrative/General Provisions (Section 3.1)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Establish a Regulatory Definition of "Transfer at Sea"	3.1.1	1, 1A	YES	
Modify Regulatory Definition of "Offload"	3.1.2	1, 1A	YES	
Expand Possession Restrictions to All Vessels Working Cooperatively	3.1.3	1A	YES	
Establish a New At-Sea Herring Dealer Permit	3.1.4	1, 1A	YES	
Eliminate the VMS "Power Down" Provision for Limited Access Vessels	3.1.5	1A	YES	
Eliminate VTR Reporting for Herring Carrier Vessels	3.1.6	1, 1A, 2, 2A, 3	YES	
Require VTRs to be Submitted on a Weekly Basis	3.1.7	1, 1A, 2, 2A, 3	YES	
Proposed Requirements for Catch Monitoring Service Providers	3.1.8		YES BUT NEEDS WORK IN DEIS	States are proposed to be authorized in Am 5 as portside/sea sampling service providers; Herring PDT and ASMFC TC will review proposed requirements for service providers with respect to States and will provide further comment/recommendations during DEIS development

Measures to Address Carrier Vessels and Transfers of Atlantic Herring At-Sea (Section 3.2)

Measures to Address Carrier Vessels (Section 3.2.2)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Require VMS on Carrier Vessels for Declaration and Eliminate LOA Enrollment Restriction	3.2.2.1	1, 1A, 2A	YES	
Dual Option for Carriers (VMS or Current LOA)	3.2.2.2	1, 1A, 2A	YES	

Measures to Address Transfers of Atlantic Herring At-Sea (Section 3.2.3)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Restrict Transfers At-Sea to Only Vessels with Category A or B Limited Access Herring Permits	3.2.3.1	1	YES	
Prohibit Transfers At-Sea to Non-Permitted Vessels	3.2.3.2	1	YES	

Trip Notification Requirements (Section 3.3)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Modify and Extend Pre-Trip Notification Requirements	3.3.1	1, 2, 3, 4	YES	Addresses both the pre-trip notification system for observers and the pre-trip VMS notification
Modify and Extend Pre-Trip Notification Req.; Extend Pre-Landing Notification Requirement	3.3.2	1, 2, 3, 4	YES	

ACL/Sub-ACL Monitoring Alternatives - Real Time Reporting (Section 3.4)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	3.4.1		YES	NMFS is considering rulemaking during 2011 to require VMS catch reporting (versus IVR); no action alternative/status quo may need revision, and the following alternatives may ultimately not be necessary

Alternative 2: Maintain/Modify IVR Reporting (Section 3.4.2)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Trip-by-trip IVR Reporting	3.4.2.1	1, 1A, 2, 2A, 3	YES	Includes sub-options for reporting deadlines and requirements for Category D (open access) vessels
Weekly IVR Reporting with New Deadline	3.4.2.2	1, 1A, 2, 2A, 3	YES	Maintains status quo with new reporting deadline

Alternative 3: Eliminate IVR, Require VMS for Catch Reporting and Quota Monitoring (Section 3.4.3)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Require Daily VMS Reporting of Atlantic Herring Catch and Discards	3.4.3.1	1, 1A, 2, 2A, 3	YES	NMFS considering rulemaking re. this issue during 2011
Require Trip-by-trip VMS Reporting of Atlantic Herring Catch and Discards	3.4.3.2	1, 1A, 2, 2A, 3	YES	NMFS considering rulemaking re. this issue during 2011

Changes to Open Access Permit Provisions for LA Mackerel Vessels in Areas 2/3 (Section 3.5)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	3.5.1		YES	
Increase Open Access Possession Limit to 20,000 lbs - Vessels w/ LA Mackerel Permit	3.5.2	2, 2A, 2B	YES	Includes increased monitoring/reporting requirements for the D vessels that obtain this permit (proposed to be consistent with limited access herring vessels)
Increase Open Access Possession Limit to 10,000 lbs - Vessels w/ LA Mackerel Permit	3.5.3	2, 2A, 2B	YES	Includes increased monitoring/reporting requirements for the D vessels that obtain this permit (proposed to be consistent with limited access herring vessels)

Catch Monitoring: At-Sea (Section 4.0)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Requirements for At-Sea Sampling (Observer) Service Providers	4.1	4B	YES BUT NEEDS WORK IN DEIS	States are proposed to be authorized in Am 5 as portside/sea sampling service providers; Herring PDT and ASMFC TC will review proposed requirements for service providers with respect to States and will provide further comment/recommendations during DEIS development

Observer Coverage Levels (Section 4.2)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	4.2.1		YES	
100% Observer Coverage	4.2.2	2, 4	YES	
Require SBRM Observer Coverage Levels	4.2.3	2, 4	YES BUT...	May need some additional discussion/refinement - unclear how the SBRM fishing modes relate to the vessels subject to the Amendment 5 catch monitoring provisions
Observer Coverage Levels Based on Council Targets	4.2.4	2, 4	YES BUT NEEDS WORK IN DEIS	Analysis likely to be updated in DEIS; also need to describe annual process for determining coverage levels under this option
Observer Coverage Levels Based on Seasonal Stratification (River Herring)	4.2.5	2, 4	YES BUT NEEDS WORK IN DEIS	Analysis to illustrate potential coverage levels under this option has not been developed; also need to describe annual process for determining coverage levels under this option

Options to Improve/Maximize Sampling At-Sea and Measures to Address Net Slippage (Section 4.3)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	4.3.1		YES	
Requirements for a Safe Sampling Station	4.3.2	2, 2A	YES	
Requirements for "Reasonable Assistance"	4.3.3	2, 2A	YES	
Provide Slippage Details	4.3.4	2, 2A	YES	
Provide Notice	4.3.5	2, 2A	YES	
Requirements for Trips with Multiple Vessels	4.3.6	2	YES	
Communication on Pair Trawl Vessels	4.3.7	2, 2A	YES	
Flow Scale for Processing Vessels	4.3.8	2	YES	
Codend Viewing (Trawls)	4.3.9	2, 2A	YES	
Provide Visual Access to Net/Codend	4.3.10	2, 2A	YES	
Closed Area I Sampling Provisions	4.3.11	2	YES BUT...	Council should determine whether the Closed Area I provisions proposed in Amendment 5 should reflect the rule changes implemented by NMFS on 11/30/10 (eliminates exemption for operational discards)
Require Released Catch Affidavit for Slippage Events	4.3.12	1, 2, 2A	YES	
Catch Deduction (and Possible Trip Termination) for Slippage Events	4.3.13		NO	Details unclear and TBD; seems arbitrary; need to consider how to track/monitor catch deductions that would occur from slippage events in order to address data discrepancies; monitoring/enforcement issues need to be resolved

Maximized Retention Alternative - Experimental Fishery (Section 4.4)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	4.4.1		YES	
Evaluate Maximized Retention Through Annual Issuance of Exempted Fishing Permits	4.4.2	1, 2, 3, 4	YES BUT NEEDS WORK IN DEIS	Concept generally fleshed out but needs more discussion; may want to consider requirements for portside sampling (currently not in the alternative); administrative details and experimental fishery provisions need more discussion with NMFS

Catch Monitoring: Portside (Section 5.0)

Options/Measures	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action	5.1		YES	Under this option, no Federal portside sampling program would be established in Amendment 5
Portside Sampling Service Providers	5.2		YES BUT NEEDS WORK IN DEIS	States are proposed to be authorized in Am 5 as portside/sea sampling service providers; Herring PDT and ASMFC TC will review proposed requirements for service providers with respect to States and will provide further comment/recommendations during DEIS development

Portside Sampling Program - Sampling Design and Sampling Protocols (Section 5.3)

Sampling Design (Section 5.3.1)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Portside Sampling/Trip Selection Priorities	5.3.1.1		YES BUT...	Priorities are clearly identified, but details of the sampling program/design/process still unclear; provisions for administration/oversight of a Federal portside sampling program remain unclear
Options for Portside Sampling Target Coverage Levels	5.3.1.2		YES	
Sampling Protocols/Methods	5.3.2		YES BUT...	Not fully developed, needs more technical work, but may be able to flesh out details during development of DEIS; Herring PDT and ASMFC TC should develop sampling protocols to meet all priorities and should review existing protocols for consistency

Alternatives for Verifying Self-Reported Landings (Section 5.4)

Alternative 1: Vessel-Level Verification - Sealing/Certification of Fish Holds (Section 5.4.1)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Option for Limited Access Category A/B Vessels and Herring Carriers	5.4.1.1	2, 2A, 2B, 2C	YES BUT...	Concept well-developed but some logistical/procedural details are lacking; unclear how these provisions would be incorporated into a portside sampling program; unclear how data will be collected and/or utilized
Options for Limited Access Category C Vessels	5.4.1.2	2, 2A, 2B, 2C	YES BUT...	See above
Alternative 2: Dealer Level Verification	5.4.2	2, 2A, 2B, 2C	NO	Needs further discussion/revision; concept exists but details are lacking; may not be possible for many trucks/transport vehicles; unclear how the provisions would apply or be monitored/enforced; unclear how data will be collected and/or utilized

Research and Outreach (Section 9.0)

Measures/Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Data and Research Needs	9.1		N/A	Will be prepared for final document
Outreach Program to Ensure Consistency in Reporting and Improve Compliance	9.2	1, 2,	YES	
Outreach Program to Foster Cooperation with Catch Monitoring Program	9.3	1, 2, 2B	YES	
Research Option 1: Explore (Possibly Implement) Net Sensor Technology Through Study Fleet	9.4	1, 2, 3, 4	YES	
Research Option 2: Explore (Possibly Implement) Video Monitoring Through Pilot Program	9.5	1, 2, 3, 4	YES	

Funding Options (Section 10.0)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Federal and Industry Funds	10.1	1, 2, 3, 4	NOT SURE	Needs further discussion/development; should not preclude development of DEIS
Fund Catch Monitoring from Federally-Permitted Dealers	10.2	1, 2, 3, 4	NOT SURE	Needs further discussion/development; should not preclude development of DEIS

Management Measures To Address River Herring Bycatch (Section 6.0)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
No Action Option	6.1		YES	

Alternative 2: River Herring Monitoring/Avoidance (Section 6.2)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Identification of Monitoring/Avoidance Areas	6.2.1		YES	

Management Measures Under Consideration (Section 6.2.2)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
100% Observer Coverage	6.2.2.1	2	YES	
Apply Closed Area I Sampling Provisions	6.2.2.2	2	YES BUT...	Council should determine whether the Closed Area I provisions proposed in Amendment 5 should reflect the rule changes implemented by NMFS on 11/30/10 (eliminates exemption for operational discards)
Two-Phase Bycatch Avoidance Approach Based on SFC/SMASST/DMF Project	6.2.2.3	2, 3	YES BUT...	Concept is developed, but additional details should be fleshed out during development of the DEIS
Options for Move Along Rules	6.2.2.4	2, 3	NO	Not feasible from administrative/enforcement/compliance perspective; overly-burdensome and complicated; see NMFS and Council staff comments in Amendment 5 Draft Discussion Document

Alternative 3: River Herring Protection (Section 6.3)

Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Identification of Protection Areas	6.3.1		YES	
Closed Areas	6.3.2	2	YES	May want to consider options for different permit holders?
Mechanism for Adjusting/Updating River Herring Areas	6.4	2, 3	YES BUT...	Concept included as a placeholder; mechanism for updating areas based on new data should be fleshed out in DEIS
River Herring Catch Caps	6.5	2	NO	Herring Committee tabled motion to eliminate catch caps (December 20, 2010); see Draft Herring PDT Discussion Paper for more information

Measures to Address Access to Groundfish Closed Areas (Section 7.0)

Options /Measures	Section	Goal/Obj	Ready for Draft EIS	Comments
Status Quo (Two Alternatives)	7.1		YES	
100% Observer Coverage	7.2	2	YES	
Apply Closed Area I Provisions	7.3	2	YES BUT...	Council should determine whether the Closed Area I provisions proposed in Amendment 5 should reflect the rule changes implemented by NMFS on 11/30/10 (eliminates exemption for operational discards)
Closed Areas	7.4		YES	

The objectives of the above measures (7.1 - 7.4) are not clear - what is the purpose?
 The Council should clarify which vessels the alternatives would apply to - midwater trawl gear only? Permit categories?

Measures to Protect Spawning Fish (Section 8.0)

Measures/Options	Section	Goal/Obj	Ready for Draft EIS	Comments
Measures to Protect Spawning Fish	8.0		NO	Council has not identified specific goals/objectives to address this issue; Herring Committee has not discussed this issue in detail; see Draft Herring PDT Discussion Paper <i>Summary of Available Information and Management Approaches to Address Spawning Atlantic Herring (January 2011)</i>