



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

**Herring Stakeholder Letters Received  
In January 2009 regarding  
Atlantic Herring Fishery Catch Monitoring Program**

**#1 – Frulla et. al Monitoring Proposal January 2009**



hold. Alternative catch weighing schemes could include using calibrated bins or scales located dockside.

On observed trips, the observer would be tasked to work with the crew to confirm the final catch numbers. Additionally, assuming adoption of a shoreside sampling program, as advocated herein, the shore-based observer could confirm the weight of landed fish. Otherwise, the landed weight would be reported on vessel trip reports and checked against dealer reports for accuracy.

Finally, in order to estimate total catch for counting against the total allowable catch ("TAC"), the Council should direct NMFS to develop a protocol for estimating the weight and composition of hauls which are not retained (so-called "slipped" tows). As explained in greater detail below under "Improvements to observer program," this could include joint efforts by observers and vessel crew to arrive at these estimates. On unobserved trips, this would rely on self-reporting. However, the integration of new technologies recommended in number 3 below, will provide objective data to help confirm such estimates. It should be noted that for TAC management purposes, it is most important to obtain the most precise estimates of total catch in Area 1, where the TAC is fully utilized.

These measures should improve the precision of catch estimates. Any remaining uncertainty will, as is currently done, be accounted for in the TAC setting process.

3. Encourage use of new technology to help provide better information: The Committee's December motion would eliminate the research TAC set-aside program. We believe this is a mistake. We propose retaining the program, which has already helped to fund an important research project, initiated last year and concluding this year. As previously recommended, this alternative should create a new research priority for use of this set-aside—that is, to use the TAC to investigate the feasibility of using the Study Fleet technology in the herring fishery.

This technology includes electronic monitors, net sensors measuring trawl depth, temperature, and other data, and GPS integrated into a vessel's major systems, the information from which is collected by computer and electronically transmitted. This technology can be used to measure incidences of slipped hauls on unobserved trips, provide fine-scale effort data (including length of tows, location, depth, temperature, etc.), and perhaps even estimates of weight. The CHOIR Coalition indicated that certain net sensors exist that can provide reasonably accurate measures of the weight of fish in a net. There is no reason that this technology cannot be tested as part of such a program.

The advantages to this proposal are many. The amount and quality of the information will help managers and the industry alike better assess conditions leading to relatively higher levels of bycatch, and thereby better avoid it. Such information will also improve catch estimates. Ultimately, this technology may also prove to be a much more cost effective means of monitoring the fishery than either additional at-sea observers or video monitors, which require hours of labor to review. Finally, this technology will provide a tool for better enforcement.

4. Portside sampling program: Another key to better assessment of incidental catch in the fishery is expansion of the current portside sampling programs. As part of this component, the Council should require NMFS to establish a uniform and statistically robust shore-based catch sampling protocol. This should include standard reporting forms, set criteria for the number of samples to be taken (e.g., x standard totes per ton or number of pounds), standards for training in species identification, and the like. This first step will insure that all information collected is comparable and rigorous, regardless of whether gathered by state, federal, or other data collectors.

Beyond this, the Council should mandate establishment of a shore-based sampling program. It is unclear whether the authority exists to mandate creation of a new program for which NMFS may not have budgetary authority. However, it seems more certain that as part of its Magnuson-Stevens Act authority to establish a standardized bycatch reporting methodology ("SBRM"), the Council can direct the agency to use some of its existing resources to collect catch and bycatch information at the first point of landing or production. As part of this requirement, NMFS and the herring industry should work jointly to establish the most effective and efficient means for gathering samples, including ample notice to NMFS ahead of landings, provisions for working space that do not unduly interfere with offload and processing operations, and other like details.

5. Provide for observer coverage to meet the SBRM: The Council should ensure that the full measure of observer coverage necessary to meet the standard called for by the SBRM for the herring fishery is, in fact, achieved. This is particularly important because, as we noted in our prior letter, the Council and NMFS lack the authority to mandate industry-funded observers unless it creates a limited access privilege program for the fishery. However, with the provision of at-sea coverage necessary to achieve a coefficient of variation ("cv") for bycatch estimates of thirty percent, the Council could then achieve its objective for higher levels of precision by use of the shore-based sampling program (see next component). Also, this will not unduly reduce the amount of observer resources available for other fisheries.

6. Achieve at least a twenty percent cv for the fishery through a combination of at-sea and shoreside sampling: It should be made abundantly clear that given the volumes of fish caught by mid-water trawl vessels, there are no opportunities for sorting fish at sea. Fish is pumped directly from the net to the holds below deck. Other than larger species that are excluded by the grates, samples taken portside and those taken by at-sea observers will yield identical results. As a result, high levels of precision for species of concern, such as river herring and haddock, can be obtained through a combination of at-sea and shore-based sampling. Parenthetically, as to fish that are not brought aboard, or which do not enter the hold, the suggestions for improving the ability of observers to measure, weigh, and count these species suggested in the final component, will enable NMFS to extrapolate such catch to unobserved trips.

7. Improvements to observer program: The primary gains in accuracy and precision in bycatch estimates can be achieved by better utilizing existing observer resources. The observer program has come up with a list of elements that could improve the current observer program. These measures include:

- A. Providing detailed explanations for why a bag is partially or totally released and conducting joint efforts by observers and crew to arrive at estimated weights and composition of released tows.
- B. Informing an observer when pumping is coming to an end.
- C. Notification of any marine mammals that might be caught in the net.
- D. Providing safe and ample sampling stations.
- E. Providing, to the extent practicable, assistance to observers in obtaining basket samples and sorted discards.
- F. In pair trawl operations, additional communication between the vessels if fish are being pumped to both vessels with only one observer.
- G. Strive to make an observer available for both vessels in pair trawl operations.

These simple measures could be easily implemented and do much to improve the program and the resultant data. Beyond this, the industry is willing to establish a Code of Conduct that is designed to improve the working relationship between the observer program and vessel personnel, as well as the quality and amount of information provided on unobserved trips. This Code would include standards for cooperation, pre-season meetings with observer program representatives to discuss problems, issues, and protocols for the fishing year, and, to the extent practicable, strive for pre-cruise meetings between the captain, officers, and observers to establish working protocols and methodologies for helping to improve data collection.

This Code would also include standards for providing detailed information on unobserved trips. This would include details on slipped hauls, including estimates of weight, species composition, and the reason for slipping the haul. Such vessels will also commit to providing details on species that are excluded from catch due to size and species limitations.

While adherence to such a code would be voluntary, it is obviously in the industry's best interest to adhere to its terms. If such a program is not seen as meeting its objectives in terms of better working relationships and data collection, the industry risks a management response that may provide for less optimal and more costly measures. The Council should therefore encourage the development of a stringent Code of Conduct, and for the industry to follow-through and enact one.

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Letter to Mr. Frank Blount  
January 21, 2009  
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KELLEY DRYE & WARREN LLP

We appreciate this opportunity to provide additional details on a second monitoring alternative. If you have any questions about the details of this proposal, we will have representatives at the meeting to provide further information. Thank you very much for your time and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'DF', with a long horizontal line extending to the right.

David E. Frulla  
Shaun M. Gehan  
Andrew E. Minkiewicz

On behalf of:

Cape Seafoods, Inc., Lund's Fisheries, Inc., Northern Pelagic Group, LLC, Western Seas Fishing Company, and the following fishing vessels: *Dona Martita, Nordic Explorer, Eastern Hunter, Western Hunter, Enterprise, Gulf Stream, Miss Lanie, Voyager, Challenger, Endeavour, Retriever, Amy Marie, Jersey Cape, Crystal Ann, Galicia, Elise G, Mt. Vernon, Isabelle Taylor, Jean MacCausland, Western Venture, Osprey, and Western Explorer.*

