

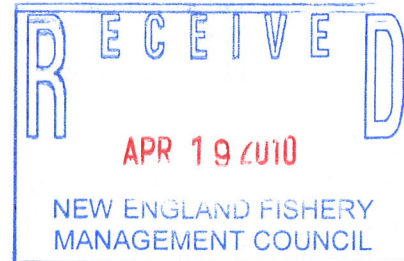


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Email to: info@lundsfish.com

April 16, 2010

The Honorable Dennis Abbott, Chairman
Atlantic Sea Herring Section
Atlantic States Marine Fisheries Commission
1444 Eye Street, NW, Sixth Floor
Washington, DC 20005



Via email: comments@asmfc.org

RE: Draft Addenda II and III to Amendment 2 to the ISFMP for Atlantic Sea Herring

Dear Mr. Abbott:

I am writing to provide comments on behalf of Lund's Fisheries, Inc. on the Commission's proposed addenda to the interstate herring plan. Lund's is a family-owned business employing 150 people in our Cape May, NJ processing facility. We operate 7 vessels and provide markets and other services for another 20 independent vessels. The Atlantic herring fishery is very important to our company and our community.

Draft Addendum II:

Proposing changes to the specification setting process and associated definitions:

Issue 1: Specifications

Overall, we support the Commission's efforts to conform the interstate and federal herring FMP's, consistent with MSA changes requiring the identification of ACL's and AM's in the herring plan. This is important to do since some 97% of commercial Atlantic herring fishing takes place in federal waters by federal permit holders. We support Option 3 with some reservations, as described below.

We note that Option 3 attempts to make the specifications in the interstate plan consistent with the specifications agreed to by the Council, in Amendment 4 to the federal plan. However, the text on page 22 does not agree with the table on page 23 as the text would eliminate both the USAP and the BT specifications. While we understand from the public hearings that this is an oversight, we would like to see the USAP specification eliminated, to protect the significant shoreside processing investments that have been made in the herring fishery.

We recognize that eliminating USAP in the IFMP would create an inconsistency with the federal plan but want to take this opportunity to make our continued opposition to USAP clear and recommend that this specification be set at zero if it is to be retained in the ISFMP.

Similarly, we believe that it is time to eliminate the BT specification, now that sardine processing is no longer occurring in the US. While the New Brunswick plant does continue to operate, we believe that fish should be trucked to the plant in the future, rather than boated over, so that the Canadian processor's cost structure would be the same as it is for domestic fish processors. The MSA does require the Secretary to approve Canadian carrier permits, so if the specification could not be eliminated, we would like to see it set at zero.

During the public hearing process, and through participation in the AP process, we have come to understand that others in the herring industry are concerned that eliminating the BT specification could jeopardize the free flow of herring for bait between Canada and the US and that some fixed gear and seine fishermen want to retain the opportunity to boat fish to the Canadian factory when the market is available. At the same time, the AP unanimously agreed that the Commission, through the states, should require dealers to report how many fish are either going to or have come from Canada, so that we can all better understand the dynamics of the herring trade between the US and Canada.

Consistent with Addendum II, we support new specifications and definitions for an Overfishing Limit, Allowable Biological Catch, and Annual Catch Limit and the retention of the DAH, DAP, and the TAC Area 1A, 1B, 2 and 3 specifications. We support removal of the current abc, JVPt, JVP, IWP and TALFF specifications.

Issue 2: Specification Setting Process

We support Option 3, which would establish a process for setting specifications that would be consistent with the NEFMC's process outlined in Amendment 4 to the federal plan. At the same time, we do have some concerns about the effect on federal permit holders if the ASMFC had the flexibility to set OFL and ABC higher than that recommended by the SSC, as proposed in the Addendum.

Issue 3: Accountability Measures

We support Option 2, which also is consistent with the Council's intent in Amendment 4 and would deduct TAC overages in one fishing year (year 1) from a future year (year 3), once a final total catch for fishing year 1 can be determined, during the following year.

Draft Addendum III:

To address reduction in landings for small mesh bottom trawl (SMBT) vessels under the Area 1A 'days out' agreements in 2008 and 2009

Overall, we are opposed to providing the SMBT fleet any flexibility from the 'days out' regime that would not also be extended to other participants in the fishery, who also are negatively impacted by limited landings opportunities during the 1A summer and fall fishery.

We are concerned that the addendum describes the impacts on the SMBT fleet as disproportionate to those of the midwater trawl and purse seine fleets when the impacts on these two fleets, which are also negatively impacted from limited landings days in the 1A fishery, are not analyzed in the document. Also, the Addendum states that 95% of the landings of the SMBT fleet occur prior to October 1, the first date that midwater trawlers are even allowed to fish in 1A. It is clear from this fact that the SMBT fleet is hardly competing with the midwater trawl fleet so we wonder why Table 5, on page 16, for example, makes comparisons of trip lengths between bottom trawl, purse seine, midwater trawl and pair trawl vessels? Such comparisons seem irrelevant to us since the SMBT and midwater trawl fleet seldom fish at the same time.

In order to compete with the reduction in landings days in the 1A herring fishery, other herring fishing companies have made investments in shoreside holding facilities, have used carriers and have found their crews tied up for many hours before being able to unload on limited, specific landings days. Everyone in the herring fishery has had to adjust with reduced quotas and reduced landings days in recent years. There is no evidence in the document that the SMBT fleet has attempted to employ similar techniques, including the use of ice, totes, salt and carriers to make their operations more efficient, so that they may also survive these challenging times in the herring fishery, as others have attempted to do.

Overall, we support “status quo” on the alternatives presented in this Addendum but there are specific options in the document that we would like to make additional comments on. The balance of our comments on Addendum III will follow the outline of the document:

Issue 1: SMBT Possession Limits

We support Option 1 (Status Quo), which allows SMBT vessels issued a C or D permit to continue to land a maximum of 2000 pounds per trip on days when other vessels can not land herring.

It would simply be unfair to other participants in the fishery to allow this sector to land more fish than they can today, when others will not be extended additional opportunities to fish. The document tells us that, potentially, 54 category C and 2272 category D permits could be fished while the remainder of the fleet would be tied up. How could Options 2 and 3, outlined here, be in any way termed fair or equitable to those not using SMBT gear?

Issue 2: SMBT ‘Days Out’

We support Option 1 (Status Quo), SMBT vessels issued a C or D permit would follow the same ‘days out’ as the rest of the fishery.

Options 2 – 5 would allow this sector to land on different days than are set for the rest of the fishery and provide additional landings days to this fleet in three of these options. Again, to allow one sector to fish while others are tied up is simply unfair to everyone but the SMBT fleet.

In the past, participants in the 1A fishery have asked ASMFC to allow vessels to choose their landings days, perhaps on a weekly basis, to avoid days lost to weather and allow fish to be available to the market on more than two days a week, for example, which was the case in 2009. We would support a change in the ISFMP that would allow all participants in the 1A fishery, including the SMBT fleet, to choose their landings days (subject to a limit on the number of days a week each vessel could land, by the Section). Enforceability could be ensured by requiring VMS on all vessels that would intend to choose their landing days.

Issue 3: Seasonal Exemption for SMBT Vessels

We support Option 1 (Status Quo). Other options would allow a potentially very large number of SMBT vessels to fish when other herring vessels would be tied up. The document does not analyze what the impacts on the other fleets would be, in terms of how much faster the quota may be caught during the fishing year, for example, or how many fewer landings days may be required for those not participating in the SMBT fleet.

Issue 4: SMBT Area Restrictions

We support Option 1 (Status Quo). Our reasoning is reflected in our concerns with the Issue 3 options above.

Issue 5: SMBT TAC Allocation

While we do agree with Option 1 (Status Quo), Option 3, which would allocate 0.66% (2005-2008 historical catches) of the Area 1A quota to the SMBT fleet is attractive and would address our concerns, and the concerns of others in the industry, that Addendum III would allow catches in the SMBT fleet to increase while other catches would be reduced. At the same time, we recognize that the states do not have the authority to assign quota taken in federal waters, so that this option, while interesting, is unlikely to work in an ISFMP. Since we do support allocations to sectors and vessels based upon fishing history, we ask ASMFC to urge the NEFMC to develop an amendment that would allow for the consideration of sectors and LAPP's in the herring fishery. This action could provide the SMBT fleet with greater flexibility than they have today.

In conclusion, we do not support the Addendum's theory that some herring fishermen are disproportionately affected by the Commission's 'days out' process. Everyone has been negatively affected. We can not support one sector's enhanced access to the 1A herring resource over others similarly engaged in the fishery, which is the clear intent of Addendum III.

Thank you for the opportunity to provide you and the other members of the Section with our comments on these Addenda.

With best regards,

Jeff Kaelin

Lund's Fisheries, Inc.