



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
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Small Entity Compliance Guide for Amendment 4 to the Atlantic Herring Fishery Management Plan March 3, 2011

Amendment 4 to the Atlantic Herring (Herring) Fishery Management Plan (Amendment 4) was approved by NOAA's National Marine Fisheries Service (NMFS) on November 9, 2010. The final rule for Amendment 4 was published on March 2, 2011, and is available on the website above. The following management measures established in Amendment 4 are effective April 1, 2011.

Specification Process

This action establishes an overfishing limit (OFL), which corresponds to a maximum sustainable yield. Amendment 4 specifies that acceptable biological catch (ABC) is to be recommended by the New England Fishery Management Council's (Council's) Scientific and Statistical Committee. During the setting of ABC, scientific uncertainty is to be considered, and ABC may be reduced from the OFL to account for scientific uncertainty.

Amendment 4 establishes a stock-wide annual catch limit (ACL) that is to be equal to or less than ABC. During the setting of the stock-wide ACL, management uncertainty is to be considered. Amendment 4 also specifies that optimum yield remain part of the specification-setting process, that it is to be equal to or less than ABC, and that it address uncertainty related to economic, social, or ecological factors.

Amendment 4 eliminates the annual specifications of total foreign processing, including joint venture processing and internal waters processing, and reserve from the Herring FMP. While total allowable level of foreign fishing (TALFF) could still be awarded consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), Amendment 4 eliminates Council consideration of TALFF during development of the specifications. Additionally, Amendment 4 maintains the current schedule of setting herring specifications for a period of up to 3 years.

Amendment 4 re-defines herring management area total allowable catches as management area sub-ACLs and maintains the allocation of the Area 1A sub-ACL into two seasonal periods, January 1 through May 31, and June 1 through December 31.

Stocks in a Fishery

Amendment 4 establishes herring as a stock in the fishery. Bycatch in the herring fishery will continue to be addressed and minimized to the extent possible, consistent with other requirements of the MSA.

Interim ABC Control Rule

This action establishes an interim control rule specifying that ABC be based on recent catch in the herring fishery and that the Council determine the desired risk tolerance when setting the ABC.

Accountability Measures

Amendment 4 establishes the following accountability measures:

If NMFS determines catch will reach 95 percent of sub-ACL allocated to a management area or seasonal period, then NMFS shall prohibit vessels from fishing for, possessing, catching, transferring, or landing more than 2,000 lb of herring per trip, and from landing herring more than once per calendar day, from that area or period.

When the Regional Administrator has determined that the haddock incidental catch cap has been caught, all vessels issued a herring permit are prohibited from fishing for, possessing, or landing herring in excess of 2,000 lb per trip in the Gulf of Maine/Georges Bank Herring Exemption Area. Additionally, the haddock possession limit for all vessels issued All Areas or Areas 2/3 Limited Access permits is reduced to 0 lb in all of the herring management areas. The 0-lb haddock possession limit does not apply to herring vessels that also possess a Northeast multispecies permit and are operating on a declared groundfish trip.

Once the total catch of herring for a fishing year is determined, using all available information, any ACL or sub-ACL overage would result in a reduction of the corresponding ACL/sub-ACL the following year. For example, if final accounting of the 2010 total herring catch in Area 1A, which is generally available in the spring of 2011, indicated that the Area 1A sub-ACL was exceeded by 5 mt, then, in 2012, the sub-ACL for Area 1A would be reduced by 5 mt to account for the overage that occurred during 2010. Any overage deductions will be announced by NMFS in the *Federal Register* prior to the start of the fishing year.

Clarifications

This action clarifies the following possession limits:

A vessel issued a Limited Access Incidental Catch Herring Permit may fish for, possess, or land up to 55,000 lb of Atlantic herring in any calendar day, and is limited to one landing of herring per calendar day, from any management area defined in § 648.200(f), provided that the area has not been closed due to the attainment of 95 percent of the sub-ACL allocated to the area.

A vessel issued an open access herring permit may fish for, possess, or land up to 6,600 lb of herring from any herring management area per trip, and is limited to one landing of herring per calendar day, provided that the area has not been closed due to the attainment of 95 percent of the sub-ACL allocated to the area.

Additional Information

The information provided with this letter is not a substitute for the complete regulations. All Federal permit holders and federally permitted dealers are encouraged to obtain a copy of the complete, official regulations by phoning NMFS at 978-281-9315 or by visiting our website (address provided above). A copy of Amendment 4, including the Environmental Assessment, Regulatory Impact Review, and Regulatory Flexibility Analysis, is also available on our website or from the Council (978-465-0492). If you have questions about Amendment 4 regulations, please phone 978-281-9315. You may also receive permit holder letters by e-mail, including closure notices, by visiting our website and clicking on "Permit Holder Letters." This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.

Sincerely,



Patricia A. Kurkul
Regional Administrator