



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

March 28, 2006

Dear Atlantic Herring Permit Holder:

This letter informs you that NOAA's National Marine Fisheries Service (NMFS) will be asking the New England Fishery Management Council (Council) to clarify its intent regarding one of the limited access vessel permit provisions proposed in Amendment 1 to the Atlantic Herring Fishery Management Plan (Amendment 1). The Council has agreed to discuss this issue on April 4, 2006, at 3:00 p.m., during the Council's meeting at the Hilton Mystic Hotel (860-572-0731) in Mystic, CT. The issue is outlined below.

The Amendment 1 document that was adopted by the Council includes the following language on page 15:

The Atlantic herring limited access program would maintain the restriction in the consistency amendment that any fishing and permit history is presumed to transfer with a vessel at the time it is bought, sold or otherwise transferred from one owner to another, unless it is retained through a written agreement signed by both parties in the vessel sale or transfer. Unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a limited access permit or CPH based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit or CPH, based on one vessel's fishing and permit history, the Regional Administrator will determine who is entitled to qualify for the permit or CPH.


In response to recent inquiries by constituents, NMFS reviewed this language. If implemented as written, vessel owners who have sold a vessel that has been issued one or more limited access permits, but retained only the Atlantic herring fishing history, could not use the Atlantic herring fishing history to qualify another vessel for the limited access permit proposed by the Council in Amendment 1. An example is outlined below:

Vessel A was issued a limited access permit for Northeast multispecies and also fished for herring during the period 1993-2003. When Owner A sold Vessel A in 2002, she specified in the Purchase and Sale Agreement (P&S) that she was retaining the Atlantic herring fishing history. Owner A purchased Vessel B in 2003, and the vessel has been issued a herring permit ever since. Owner A would not be allowed to utilize the retained Vessel A herring landings history to qualify Vessel B for the limited access herring permit, because Vessel A's fishing history was used to qualify Vessel A for a Northeast multispecies limited access permit.



My Regional Office staff members have been advising constituents that they may prepare P&S documents to retain fishing histories, but in many cases have not explained the complication that would occur if the vessel also had limited access permits. I will ask the Council to clarify its intent so it can be presented in the proposed regulations for Amendment 1. The Council could decide to interpret the regulation literally, or could specify another approach. You are encouraged to attend the April 4 meeting or to otherwise make your views known to the Council regarding this issue.

Sincerely,


for Patricia A. Kurkul
Regional Administrator

Cc: New England Fishery Management Council
Mid-Atlantic Fishery Management Council