



National Marine Fisheries Service
Northeast Regional Office
Sustainable Fisheries Division
<http://www.nero.nmfs.gov>



Status Report of Northeast Region Actions

Prepared for the December 16-18, 2013
Meeting of the
New England Fishery Management Council

December 16, 2013

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New England Council Actions

Groundfish

Proposed Rule Considering the Opening of Several Groundfish Closed Areas

On July 11, 2013, NMFS published a proposed rule in the Federal Register (78 FR 41772) that considered opening up several year-round groundfish closed areas, under certain conditions. This was in response to several sector exemption requests following the partial approval of Framework 48. The comment period ended on July 26, 2013; we received approximately 81,000 comments on the proposed rule. We are currently working on a final rule. For additional information, please contact William Whitmore at [\(978\) 281-9182](tel:978-281-9182).

Interim Final Rule Allowing Sector Vessels into the Nantucket Lightship Year-Round Closed Area

We have published an interim final rule that allows sector vessels to fish in portions of the Nantucket Lightship Year-Round Closed Area with selective gear for the duration of fishing year 2013. Starting December 31, 2013, sector vessels can fish in the Eastern and Western Exemption Areas of the Nantucket Lightship Closed Area under standard groundfish at-sea monitoring requirements. Sectors with vessels interested in utilizing this exemption must notify us. Prior to fishing in these areas, vessels will need a revised Letter of Authorization (LOA) from their sector manager. When fishing in the Eastern or Western Exemption Areas, gillnet vessels must fish with extra-large mesh gillnets (10" or greater). Pingers must be attached to gillnets when fishing in the Western Exemption Area. Trawl vessels must fish with selective trawl gear, such as the Rühle or haddock separator trawl. Standard otter trawls and flounder nets are prohibited in these areas.

Because we originally proposed 100% industry-funded at-sea monitoring in the Nantucket Lightship Closed Area, we are soliciting public comment on our modified coverage level until January 15, 2014.

Based on public comment, we are not allowing sector vessels into the Western Gulf of Maine, Cashes Ledge, or Closed Areas I and II.

Scallops

None at this time

Monkfish

Suspension of Monkfish Possession Limits in the Northern Fishery Management Area

On October 28, 2013, NOAA published an interim final rule that suspended monkfish landing limits for vessels issued a limited access monkfish Category C or D permit fishing under a monkfish or multispecies day-at-sea in the Northern Fishery Management Area. These limits will remain suspended through April 30, 2014, or until further notice. This rule modified the April 30, 2013, interim final rule to also suspend monkfish limits for Category C or D vessels fishing on a multispecies day-at-sea based on updated data indicating that the monkfish fishery is likely to underharvest total allowable landings in both the Northern and Southern Fishery Management Areas during fishing year 2013. This action is in response to an emergency action request by the New England Fishery Management Council, and is intended to help mitigate adverse economic and social impacts of substantially reduced Northeast multispecies annual catch limits during 2013.

Herring

Adjustments to 2014 Sub-Annual Catch Limits for the Atlantic Herring Fishery

NMFS published a proposed rule in the Federal Register on November 22, 2013 that proposes to adjust the 2014 sub-annual catch limits (ACLs) for the Atlantic herring (herring) fishery to account for catch overages and underharvest in 2012. NMFS is decreasing three of the four sub-ACLs and increasing one sub-ACL. This results in an increase to the overall catch available to the herring fleet. The comment period closed on **December 9, 2013**.

Framework Adjustment 2/2013-15 Specifications

NMFS published a proposed rule in the Federal Register on **August 2, 2013** that proposes regulations to implement Framework Adjustment 2 to the Atlantic Herring FMP (Herring FMP) and the 2013–15 fishery specifications for the Atlantic herring fishery (Framework 2). The comment period closed **September 3, 2013**.

Framework 2 would allow the New England Council to (1) split annual catch limits (ACL) seasonally for the four Atlantic herring management areas, and (2) carryover unharvested catch, up to 10 percent, for each area's sub-ACL. The specifications would set catch specifications for the herring fishery for the 2013–15 fishing years, adjust accountability measures, revise the acceptable biological catch control rule, and establish seasonal splits for management areas 1A and 1B, as recommended to NMFS by the New England Council.

Amendment 5

On **July 18, 2013**, NMFS, on behalf of the Secretary of Commerce, partially approved Amendment 5 to the New England Council's Herring FMP.

Amendment 5 will improve the catch monitoring program for the herring fishery and address bycatch issues through responsible management. It contains many measures that will improve herring management and that can be administered by NMFS. We supported improvements to

fishery dependent data collections, be it through increasing reporting requirements or expanding the at-sea monitoring of the herring fishery. We also shared the New England Council's concern for reducing bycatch.

However, a few measures in Amendment 5 lacked adequate rationale or development by the Council, and we had utility and legal concerns about the implementation of these measures. These measures are: A dealer reporting requirement; a cap that, if achieved, would require vessels discarding catch before it had been sampled by observers (known as slippage) to return to port; and a requirement for 100-percent observer coverage on Category A and B vessels, coupled with a limited industry contribution of \$325 per day toward observer costs.

We expressed our concerns about the implementation of these measures throughout the development of this amendment and, most recently, articulated them in our comments on the draft EIS. The proposed rule for Amendment 5 also described our concerns about these measures' consistency with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

Skate

None at this time

Atlantic Deep-Sea Red Crab

None at this time

Mid-Atlantic Council Actions

Summer Flounder, Scup and Black Sea Bass

Closure of the 2013 Massachusetts Summer Flounder Fishery

The 2013 commercial summer flounder quota allocated to Massachusetts has been harvested. As of August 23, 2013, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may no longer land summer flounder in Massachusetts for the remainder of the 2013 calendar year. The Commonwealth of Massachusetts also closed its commercial summer flounder fishery to state permitted vessels and dealers on the same day.

Closure of the 2013 New York Summer Flounder Fishery

The 2013 commercial summer flounder quota allocated to New York has been harvested. As of October 1, 2013, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may no longer land summer flounder in New York for the remainder of the 2013 calendar year. The State of New York also closed its commercial summer flounder fishery to state permitted vessels and dealers on the same day.

Summer Flounder Quota Transfer

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NMFS published a temporary rule in the Federal Register on November 7, 2013, that transferred 5,400 lb of commercial summer flounder quota from Maine to Connecticut. The revised summer flounder quotas for calendar year 2013 are: Maine, 41 lb; and Connecticut, 263,605 lb. This transfer was prompted by the diligent efforts of state officials in Connecticut not to exceed the commercial summer flounder quota.

Closure of the 2013 New Jersey Summer Flounder Fishery

The 2013 commercial summer flounder quota allocated to New Jersey has been harvested. As of November 27, 2013, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may no longer land summer flounder in New Jersey for the remainder of the 2013 calendar year.

Closure of the 2013 Virginia Summer Flounder Fishery

The 2013 commercial summer flounder quota allocated to Virginia has been harvested. As of December 4, 2013, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may no longer land summer flounder in Virginia for the remainder of the 2013 calendar year. The Commonwealth of Virginia also closed its commercial summer flounder fishery to state permitted vessels and dealers on the same day.

Reopening of the 2013 New Jersey Summer Flounder Fishery

It was determined that the commercial summer flounder fishery in New Jersey was closed prematurely and quota remained available for harvest. As of December 6, 2013, fishing vessels issued a Federal moratorium permit for the summer flounder fishery may land summer flounder in New Jersey until the quota has been fully harvested.

Atlantic Bluefish

Bluefish Quota Transfer

NMFS published a temporary rule in the Federal Register on September 4, 2013, that transferred 200,000 lb of commercial bluefish quota from North Carolina to Massachusetts. The revised bluefish quotas for calendar year 2013 are: North Carolina, 2,709,829 lb; and Massachusetts, 809,606 lb. This transfer was prompted by the diligent efforts of state officials in Massachusetts no to exceed the commercial bluefish quota.

NMFS published a temporary rule in the Federal Register on October 28, 2013, that transferred 300,000 lb of commercial bluefish quota from New Jersey to New York. The revised bluefish quotas for calendar year 2013 are: New Jersey, 1,044,713 lb; and New York, 1,242,548 lb. This transfer was prompted by the diligent efforts of state officials in New York not to exceed the commercial bluefish quota.

Spiny Dogfish

2013-2015 Spiny Dogfish Specifications

The final 2013-2015 spiny dogfish specifications published in the Federal Register on May 3, 2013, and became effective on May 1, 2013. NMFS implemented the measures jointly-recommended by the Council and the New England Council as follows:

2013: ACL = 54.295 million lb; commercial quota = 40.842 million lb

2014: ACL = 55.277 million lb; commercial quota = 41.784 million lb

2015: ACL = 55.063 million lb; commercial quota = 41.578 million lb

These quotas represent 14-17-percent increases from 2012 levels. NMFS also increased the spiny dogfish possession limit from 3,000 lb to 4,000 lb per trip for the 2013-2015 fishing years. For additional information, please contact Tobey Curtis at (978) 281-9273, or Tobey.Curtis@noaa.gov.

Atlantic Mackerel, Squid, and Butterfish (MSB)

Amendment 14 Notice of Availability and Proposed Rule

A Notice of Availability (NOA) for Amendment 14 to the Atlantic Mackerel, Squids, and Butterfish FMP published in the Federal Register on August 12, 2013. The comment period on the NOA closes on October 11, 2013. A proposed rule for Amendment 14 published in the Federal Register on August 29, 2013. The comment period on the proposed rule also closes on October 11, 2013.

The goals of Amendment 14 are to: Implement an effective program for monitoring river herring and shad incidental catch and bycatch in the MSB fisheries; and reduce the incidental catch and bycatch of river herring and shad in the mackerel fishery.

The proposed Amendment 14 management measures will include: Revising fishery management program provisions (dealer and vessel reporting requirements, requirements for vessel monitoring systems, and trip notifications); increasing observer coverage and requiring industry to contribute funds towards the cost of increased observer coverage; expanding vessel requirements to maximize observer's ability to sample catch at-sea; minimizing the discarding of unsampled catch; and a cap on the incidental catch and bycatch of river herring and shad in the mackerel fishery.

Comments submitted on the NOA and/or the proposed rule prior to October 11, 2013, will be considered in NMFS's decision to approve, partially approve, or disapprove Amendment 14. For more information, please contact Aja Szumylo at [978-281-9195](tel:978-281-9195), or aja.szumylo@noaa.gov.

Tilefish

None at this time.

Surfclam and Ocean Quahog

2014-2016 Atlantic Surfclam and Ocean Quahog Specifications

On November 7, 2013, NMFS published a proposed rule soliciting comment on the 2014-2016 quota specifications for the Atlantic surfclam and ocean quahog fisheries. The comment period closed on November 22, 2013. The proposed quotas are unchanged from the current quotas. NMFS is now working to finalize the action and intends to have the quotas in place by the start of the surfclam and ocean quahog fishing year on January 1, 2014. The specifications action would also continue to suspend the minimum size limit for surfclams pending the results of the annual review. For additional information, contact Jason Berthiaume at (978) 281-9177, or Jason.Berthiaume@noaa.gov.

Other Actions

Paperwork Reduction Act Request for Comments

On November 15, 2013, NMFS published a notice in the Federal Register soliciting comment on the renewal of collection of information requirements regarding fishing gear marking requirements. Federal regulations require Federal fishery permit holders using certain types of fishing gear mark the gear with specified information. The gear marking requirements provide vessel and gear identification information (e.g., hull identification number, Federal fishing permit number, etc.). The regulations also specify how the gear is to be marked for the purposes of visibility (e.g., buoys, radar reflectors, etc.). These gear marking requirements aid in fishery law enforcement, make the gear more visible to other vessels to aid in navigation, and provide other fisherman with information regarding the gear type being used to help prevent gear conflicts. For additional information contact Jason Berthiaume at (978) 281-9177 or at Jason.Berthiaume@noaa.gov. The full Federal Register notice is also available online at:

www.federalregister.gov/articles/2013/11/15/2013-27340/proposed-information-collection-comment-request-northeast-region-gear-identification

River Herring: Proactive Conservation Effort

In early August, when NOAA Fisheries published our ESA listing decision for river herring, we indicated that we were partnering with ASMFC to form a technical expert working group. The work group will be focused on developing a single, dynamic conservation plan to help restore river herring throughout their entire range from Canada to Florida, identifying and implementing important conservation efforts, and conducting research to fill in some of the critical data gaps for these species. NOAA Fisheries has provided funds to ASMFC, and we have been working together on plans for this process. Planning was slightly delayed by the government shutdown, but now that staff are back, NOAA Fisheries and ASMFC intend to contact potential working group members within the next couple of weeks and schedule the group's first meeting hopefully before the end of the year. Ideally, this effort will include technical experts from the following categories: Federal government agencies (NOAA, U.S. Fish and Wildlife Service, Environmental Protection Agency, Federal Energy Regulatory Commission, U.S. Geological Survey, U.S. Army Corps of Engineers, etc.), ASMFC, the Fishery Management Councils, state fish/wildlife agencies, East Coast Native American Tribes and First Nations, environmental/conservation groups,

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scientific/academic representatives, industry (e.g., hydroelectric and fishing), and recreational interests.

Recently, the Mid-Atlantic Fishery Management Council met and announced plans to form an Interagency Working Group to address threats to river herring and shad. This complements the NOAA Fisheries/ASMFC efforts to further proactive river herring conservation, and we have been coordinating on how best to approach it. The coordination occurring now among NOAA Fisheries, AMSFC, MAFMC and the NEFMC is intended to maximize limited resources and identify ways to complement ongoing efforts without duplication. The details of this collaborative effort are still being worked out; however, it is clear that the NOAA Fisheries, ASMFC, MAFMC and NEFMC share a desire to work together to conserve river herring. We are also reaching out to the Atlantic Coastal Fish Habitat Partnership, which received a grant from the National Fish and Wildlife Foundation (NFWF), to conduct a multi-region webinar to gather river-system specific information related to river herring habitat.

Recreational Omnibus Accountability Measures Amendment

On December 4, 2013, NMFS, on behalf of the Secretary of Commerce, partially approved the Recreational Accountability Measures Omnibus Amendment. The implementing final rule will be published soon in the *Federal Register*.

The majority of the amendment has been approved. As called for in the amendment, we will remove the in-season closure requirement and the pound-for-pound payback will be replaced with a system of reactive accountability measures that would result in a payback only under certain conditions, as described in the Amendment, including scaling the payback, if necessary, relative to the stock condition.

The portion of the Amendment that was disapproved was the measure to use the lower confidence interval, as opposed to the point estimate, to determine if the annual catch limit was exceeded. This measure was disapproved because it violated the National Standard 2 requirement to use the best scientific information available.

Lobster

NOAA Fisheries published an Advanced Notice of Proposed Rulemaking (ANPR) on August 20, 2013 (78 FR 51131) requesting comment on upcoming measures to address low abundance of the SNE American lobster stock and persistent recruitment failure caused by a combination of environmental factors and continued fishing mortality. Measures, as approved by the Atlantic States Marine Fisheries Commission (Commission) in Addenda XVII and XVIII to Amendment 3 to the Commission's Interstate Fishery Management Plan for American Lobster, include: American lobster minimum size increases, mandatory v-notching of egg-bearing female American lobsters, seasonal closures, and trap allocation reductions. The comment period closed September 19, 2013; so far we have received 4 comments. A proposed rule is expected to publish this fall. The ANPR may be obtained at www.nero.noaa/sfd/lobster. For questions, contact Allison Murphy, Fishery Policy Analyst at (978) 978-281-9122, allison.murphy@noaa.gov

Experimental Fishery Actions

Research Document Applications under Review

No new research applications at this time.

Research Document Application Review Completed

On October 21, 2013, NMFS issued an EFP to the University of Massachusetts, Dartmouth, School for Marine Science and Technology (SMAST) to facilitate compensation fishing in support of a project that seeks to validate monkfish age. This study was awarded 129 DAS under the 2012 Monkfish Research Set-Aside (RSA) Program. The project focuses on validating the age of monkfish by incorporating a chemical marker into the age structures in a laboratory study and examining the influence of temperature. Twenty-five vessels have been identified by the applicant to conduct compensation fishing under the requested EFP. For additional information contact Jason Berthiaume at (978) 281-9177, or Jason.Berthiaume@noaa.gov.

On October 24, 2013, SMAST was issued an LOA to conduct a study to improve estimates of the abundance, spatial distribution, size structure, and length-weight relationship of Georges Bank yellowtail flounder through the application of video technology. This 10-day project will build on a pilot video survey that was conducted in April 2013. Researchers will continuously tow a 2-seam flatfish survey trawl that has a video camera in the codend in an attempt to count and identify groundfish, particularly yellowtail flounder. The codend will remain open with the exception of a 30-minute tow with a closed codend in the morning and in the afternoon. Fish collected during the closed codend tows will be used to groundtruth open codend fish counts, and to sample for species identification and length/weight measurements. No fish will be landed for sale. For additional information, contact Ryan Silva at [\(978\) 281-9326](tel:9782819326), or at Ryan.Silva@noaa.gov.