

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

RIN 0648-AW75

**Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Amendment 4**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability (NOA) of a fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 4 to the Atlantic Herring (Herring) Fishery Management Plan (FMP) (Amendment 4), incorporating the public hearing document and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce and is requesting comments from the public.

**DATES:** Comments must be received on or before October 12, 2010.

**ADDRESSES:** An environmental assessment (EA) was prepared for Amendment 4 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 4, including the EA, the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA), are available from: Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465-0492. The EA/RIR/IRFA is also accessible via the Internet at <http://www.nero.nmfs.gov>.

You may submit comments, identified by 0648-AW75, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>;
- Fax: (978) 281-9135, Attn: Carrie Nordeen;
- Mail to NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Herring Amendment 4."

Instructions: No comments will be posted for public viewing until after the

comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

**FOR FURTHER INFORMATION CONTACT:** Carrie Nordeen, (978) 281-9272.

**SUPPLEMENTARY INFORMATION:****Background**

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) was re-authorized in January 2007. As a result of the re-authorization, the Magnuson-Stevens Act requires the establishment of annual catch limits (ACLs) and (AMs) to end and/or prevent overfishing in all FMPs. This amendment is needed to bring the Herring FMP into compliance with new Magnuson-Stevens Act requirements by: Revising definitions and the specifications-setting process, consistent with ACL requirements; and establishing fishery closure thresholds, a haddock incidental catch cap, and overage paybacks as AMs. Because herring is not subject to overfishing, the Herring FMP is required to be in compliance with ACL and AM requirements by 2011.

A notice of intent (NOI) was published in the **Federal Register** (73 FR 26082, May 8, 2008) announcing the Council's intent to develop Amendment 4 to the Herring FMP and prepare an environmental impact statement (EIS) analyzing the impacts of the proposed management measures. In addition to bringing the Herring FMP into compliance with ACL and AM requirements, initially, Amendment 4 also considered: Catch monitoring and reporting, interactions with river herring, access by midwater trawl vessels to groundfish closed areas, and interactions with the Atlantic mackerel fishery.

In June 2009, the Council determined there was not sufficient time to develop and implement Amendment 4, in its entirety, by 2011, so it decided to split Amendment 4 into two separate actions. The Council determined that Amendment 4 would continue to

address ACL and AM requirements, but that all other issues (e.g., catch monitoring and reporting, interactions with river herring and Atlantic mackerel, access to groundfish closed areas) would be considered in Amendment 5 to the Herring FMP. A supplemental NOI, announcing this change and notifying the public that an environmental assessment, rather than an EIS, was being prepared to analyze the impacts of Amendment 4, was published in the **Federal Register** on December 28, 2009 (74 FR 68577).

The Council held three public meetings on Amendment 4 during January 2010. Following the public comment period that ended on January 12, 2010, the Council adopted Amendment 4 on January 26, 2010.

This action proposes management measures that were recommended by the Council as part of Amendment 4. If implemented, these management measures would:

- Revise current definitions and the specification-setting process to include ACLs and AMs;
- Designate herring as a "stock in the fishery;"
- Establish an interim acceptable biological catch (ABC) control rule;
- Eliminate total foreign processing (JVpt), including joint venture processing (JVP) and internal waters processing (IWP), and reserve from the specifications process; and
- Eliminate the annual consideration of total allowable level of foreign fishing (TALFF).

Public comments are solicited on Amendment 4 and its incorporated documents through the end of the comment period stated in this NOA. A proposed rule that would implement Amendment 4 may be published in the **Federal Register** for public comment, following NMFS's evaluation of the proposed rule under the procedures of the Magnuson-Stevens Act. Public comments must be received by the end of the comment period provided in this NOA of Amendment 4 to be considered in the approval/disapproval decision on the amendment. Comments received after that date will not be considered in the decision to approve or disapprove Amendment 4. To be considered, comments must be received by close of business on the last day of the comment period provided in this NOA.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 6, 2010.

**Carrie Selberg,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-19868 Filed 8-11-10; 8:45 am]

**BILLING CODE 3510-22-S**