



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910

May 1, 2026

Cate O'Keefe
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Cate,

Thank you for your letter documenting the decisions of the New England Fishery Management Council in response to our request to the Council related to Executive Order 14276, *Restoring American Seafood Competitiveness*, signed by the President on April 17, 2025. We appreciate that the Council considered public comments submitted during the December 2025 open comment period and understand that the Council is not recommending changes to its original September 30, 2025, list of activities and workplan for Executive Order 14276. In particular, we note that the Council considered, but did not recommend, revisiting the industry-funded monitoring (IFM) program developed for the Atlantic herring fishery. For the reasons provided below, we respectfully request that the Council reconsider this decision and agree to proceed with a Council action to revise and potentially withdraw the IFM provisions for the herring fishery.

After careful consideration, we have determined that an action removing Atlantic herring monitoring requirements at 50 CFR part 648.11(m) may be warranted to remove unused provisions that are not achieving their intended goals and thereby reduce regulatory burdens on Atlantic herring fishery participants. The herring IFM program was developed to provide: (1) accurate estimates of catch (retained and discarded); (2) accurate catch estimates for incidental species with catch caps (haddock and river herring/shad); and (3) affordable monitoring for the herring fishery. The Council intended that the program be evaluated within two years of its implementation to determine what level of coverage may best achieve its stated goals. However, to date, due to a number of unexpected complications, there has been insufficient IFM coverage to support a meaningful evaluation or to show that the program is achieving its stated goals. In particular, we announced in November 2022 that we were suspending the herring IFM program for the foreseeable future due to a lack of resources to effectively implement the program.

Because the herring IFM program imposes costs on NOAA's National Marine Fisheries Service (NMFS) as well as the herring industry itself in order to be effectively implemented, in the face of declining resources and the need to prioritize our activities to support the Administration's goals and objectives of Executive Order 14276, it is unlikely that NMFS will have the resources necessary to support this program. In total, since this program was initially approved in January 2020, it has never been fully implemented at the levels intended (50 percent of trips), and during the two years that the program was partially effective, NMFS fully reimbursed all participating vessels for their costs.

Since this time, the President issued Executive Order 14276, requiring the Secretary of Commerce to consider rescinding regulations that overly burden America's fishing industry, in

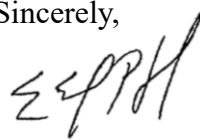


cooperation with regional fishery management councils. Likewise, the Executive Office of the President, Office of Management and Budget (OMB), published a *Notice of Request for Information* seeking proposals for rescinding unnecessary regulations. Among the many suggestions received in response, the Secretary received requests to rescind the herring IFM requirement from herring fishery participants due to its potential costs.

Therefore, for these reasons, the Secretary requests that the New England Fishery Management Council reconsider its decision to not initiate an action to consider rescinding the Atlantic herring IFM regulations at § 648.11(m). Rescinding these regulations is consistent with the objectives of Executive Order 14276 due to their disuse and inability to demonstrate they are achieving their stated goals. We are also aware that herring fishery participants have expressed concerns about the potentially high level of costs of IFM in relation to the recent low level of biomass and low productivity rate of Atlantic herring. The Council should consider and act on this request as soon as possible to initiate and develop an action for Secretarial review.

If the Council is unable to initiate an action within a reasonable time, the Secretary is authorized to prepare an amendment to rescind these measures. The Secretarial amendment process requires public hearing at appropriate times in the geographical areas concerned and to provide the Council with an opportunity to consider and comment on the proposed amendment. As you are aware, the Atlantic herring IFM regulations are the subject of litigation in *Loper Bright Enterprises*, pending in the D.C. Circuit Court of Appeals, and *Relentless*, pending in the 1st Circuit Court of Appeals. An action removing the Atlantic herring IFM requirements at § 648.11(m) is an important step toward resolving both of these cases and bringing an end to the litigation over the herring IFM program.

Sincerely,

A handwritten signature in black ink, appearing to read 'E Piñeiro Soler', written in a cursive style.

Eugenio Piñeiro Soler
Assistant Administrator
for Fisheries