

# ***Atlantic States Marine Fisheries Commission***

## **ADDENDUM I TO AMENDMENT 3 TO THE ATLANTIC HERRING INTERSTATE FISHERY MANAGEMENT PLAN**



*ASMFC Vision: Sustainably Managing Atlantic Coastal Fisheries*

**Approved May 2017**

## 1. Introduction

The Atlantic States Marine Fisheries Commission (ASMFC) is responsible for managing Atlantic Herring (*Clupea harengus*), under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (ACFMA). The U.S. Atlantic herring fishery is currently managed as a single stock through complementary fishery management plans (FMPs) by ASMFC and the New England Fishery Management Council (NEFMC). ASMFC has coordinated interstate management of Atlantic herring in state waters (0-3 miles) since 1993. Management authority in the exclusive economic zone (EEZ, 3-200 miles from shore) lies with the NEFMC and National Marine Fisheries Service (NMFS).

The stockwide annual catch limit (ACL) is divided amongst four distinct management areas: inshore Gulf of Maine (Area 1A), offshore Gulf of Maine (Area 1B), Southern New England/Mid-Atlantic (Area 2), and Georges Bank (Area 3). The Area 1A fishery is managed by ASMFC's Atlantic Herring Section (Section), which includes representatives from Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York and New Jersey.

The Section meets annually to distribute the Area 1A sub-ACL seasonally and determine the amount of landing days per week—these are the primary effort controls in the Area 1A fishery. Since 2009, the Section has split the Area 1A sub-ACL into trimesters (Table 1).

**Table 1. 2017 seasonal quota allocation of the Area 1A sub-ACL**

Trimester 1	January 1 - May 31	0% <sup>1</sup>
Trimester 2	June 1 – September 30	72.8%
Trimester 3	October 1 – December 31	27.2%

At its October 2016 meeting, the Section initiated Addendum I to Amendment 3 of the Atlantic Herring FMP to consider alternative management measures in order to improve the performance of the Area 1A fishery. This addendum provides effort controls that are designed to control the rate of Area 1A catch so the seasonal quota can be spread throughout the entirety of a trimester, specifically Trimester 2. Prior to each trimester, Section members from states adjacent to Area 1A (Maine, New Hampshire and Massachusetts), with input from stakeholders, meet to set the number of consecutive landings days per week via a Days Out Meeting. Fishery managers adapt these measures each year to provide herring between June and December, when demand for lobster bait is high and fishermen can sell their herring catch for premium value.

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<sup>1</sup> NMFS set a seasonal Area 1A sub-ACL division of 0% from January-May in the 2013-2015 and 2016-2018 specifications.

## **2. Overview**

### **2.1 Statement of the Problem**

The Area 1A sub-ACL is divided seasonally to meet the needs of the fishery and the bait market. The majority of the sub-ACL is allocated to the months of June – September (Trimester 2) when demand for lobster bait is highest. During the last two fishing years, the Area 1A Trimester 2 fishery has harvested herring at a rate that if left unrestricted would exceed the seasonal quota in weeks, not months. This increase in Area 1A fishing effort and vessel capacity is in reaction to a significant decrease of readily available herring in Area 3. Area 3 herring fishermen have reported finding some Atlantic herring schools, but in deep waters and intermixed with haddock schools.

The Atlantic Herring Section has attempted to spread the Trimester 2 quota throughout each season utilizing a series of in-season, reactive days out management measures on behalf of the Commission. Given the evolving nature of the fishery these efforts have proved to be ineffective. In 2016, the state of Maine implemented measures that were more restrictive than those of the Commission. This addendum provides additional management tools to spread the seasonal quota throughout the entirety of Trimester 2.

### **2.2 Background**

#### **2.2.1 Area 1A Effort Controls**

Effort controls are the primary focus of this addendum. The historical and current effort controls are summarized below.

##### *History of Area 1A Effort Controls*

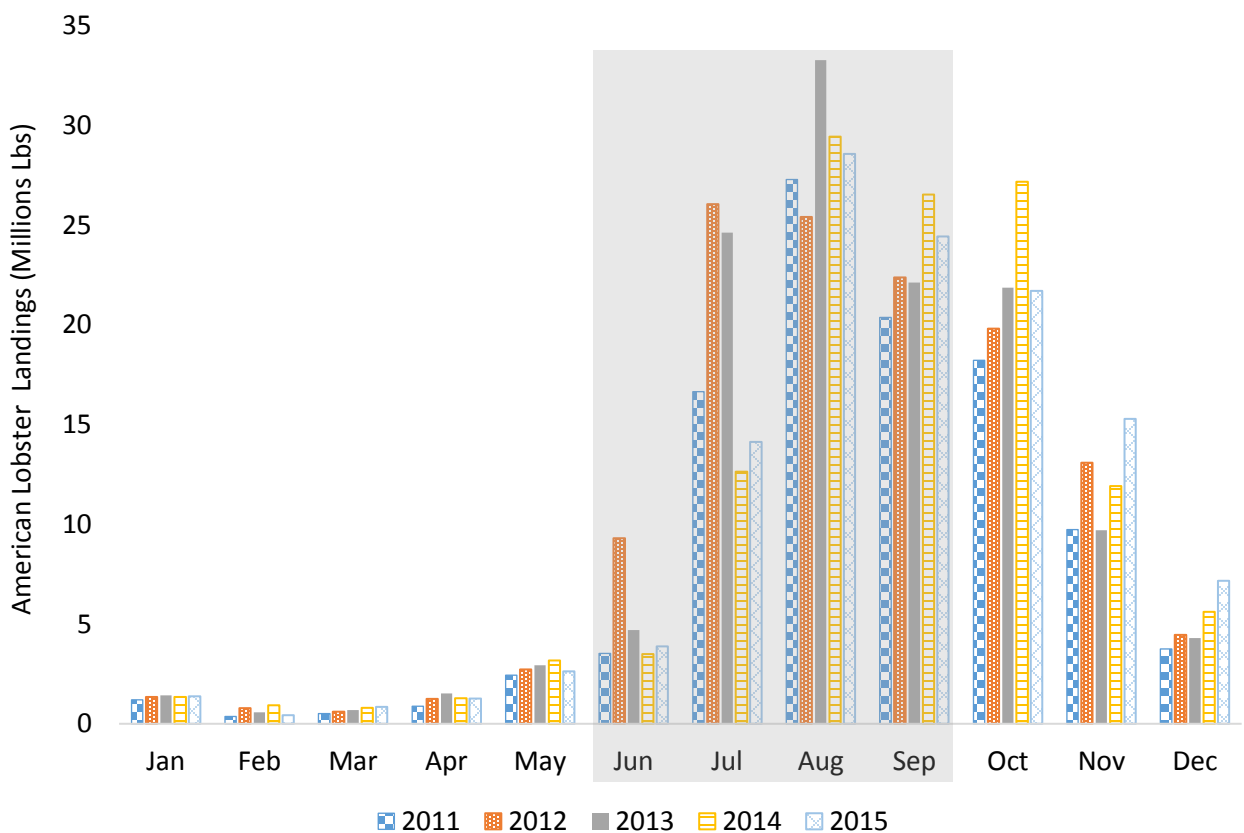
The days out management measures, first implemented in 1999 via Amendment 1 to the Atlantic Herring FMP, established fixed days out of the fishery relative to harvest levels. It was called a 'day out' because a vessel could not land or fish on the designated days out. For example, Friday, Saturday and Sunday were no landing/fishing days when 75% of the total allowable catch was expected to be exceeded; at 90%, Monday also became a no landing/fishing day. Amendment 2 (2006) removed the fixed landing days and allowed Section members to decide the specific days out of the fishery, as long as they were consecutive days. Consecutive days are seen as more effective because the fishery has to wait a period of time before resuming fishing efforts.

In the 2007 and 2008 fishing years there was a bait shortage due to a reduced Area 1A quota and increased effort, including an increase in the number of carrier vessels. The Section took action via Addendum I to Amendment 2 (2009) by creating seasonal quotas (bi-monthly periods or trimesters) to control effort and distribute the quota seasonally. In addition, a process to determine days out of the fishery was established, and the prohibition on fishing during a day out was removed due to jurisdictional concerns from the ASMFC Law Enforcement Committee (LEC). Specifically a 2009 LEC memo states the vast majority of Area 1A fishing takes place in

federal waters where state officers have no authority to enforce ASMFC at-sea fishing restrictions.

*Current Area 1A Effort Controls*

The Section meets annually to distribute the Area 1A sub-ACL seasonally and determine the amount of landing days per week—these are the primary effort controls in the Area 1A fishery. Since 2009, the Section has split the Area 1A sub-ACL into trimesters (Table 1). The majority (72.8%) of the Area 1A sub-ACL has been allocated during the months of June through September (Trimester 2). This time period largely overlaps with the peak months for lobster landings (Figure 1), where herring is the most widely used bait type.



**Figure 1. Monthly landings of American lobster in Maine (2011-2015). The months within Trimester 2 of the Atlantic Herring Area 1A fishery are shaded in grey. Source: ACCSP**

Table 2 shows the historical landing days during Trimester 2 of the Area 1A fishery. At the start of the season, managers make planned landing day adjustments based on fishery performance from previous years. At times, managers have to make reactionary changes in-season to increase or decrease the landings days based on the amount of seasonal quota available.

**Table 2. Area 1A landing days during Trimester 2 (2011-2016)**

Year	Trimester 2	Landing Days	Comments
2011	June 1 – June 26	2	3 in-season planned changes; 1 reactionary
2011	June 27 – July 17	3	
2011	July 18 – Aug 7	4	
2011	Aug 8 – Sept 30 ( <i>reactionary</i> )	7	
2012	June 1 - 30	2	3 in-season planned changes
2012	July 1 – 14	4	
2012	July 15 – Sept 30	7	
2013	June 1 – Sept 8	7	1 reactionary in-season change
2013	Sept 9 – 30 ( <i>reactionary</i> )	0	
2014	June 1 – July 6	5	1 reactionary in-season change
2014	July 7 – Sept 30 ( <i>reactionary</i> )	7	
2015	June 1- July 5	5	2 in-season planned changes; 1 reactionary
2015	July 6 – Aug 27	7	
2015	Aug 28 – Sept 30 ( <i>reactionary</i> )	0	
2016	June 1 – 30	3	3 in-season planned changes; 2 reactionary
2016	July 1-14	4	
2016	July 15-23	5	
2016	July 24 – Sept 17 ( <i>reactionary</i> )	2	
2016	Sept 18 – Sept 30 ( <i>reactionary</i> )	0	

In 2011, 2012 and 2014 managers gradually increased the amount of landing days such that Trimester 2 ended with seven landing days to ensure the seasonal quota was harvested. In 2013, the season opened with seven landing days and was restricted to zero landing days at the beginning of September.

In 2015, managers planned to gradually increase the amount of landing days throughout the summer, however due to a surge in August landings the fishery was restricted to zero landing days in September.

In 2016, managers planned to gradually increase the number of landing days during July, however, higher than expected landings in June resulted in landing day restrictions in mid-July and mid-September on behalf of the Commission. Maine’s Department of Marine Resources (DMR) applied additional measures to those vessels landing in Maine, which included a weekly landing limit, fishing day restrictions, transfer at sea restrictions, etc.

For more information on historical Area 1A effort controls and the 2015/2016 fishing season, refer to the white paper (Harp 2016).

### **2.2.2 Fishing Effort**

#### *Landings*

Atlantic herring vessels use purse seines, single midwater trawls, midwater pair trawls, small mesh bottom trawls and fixed gear for fishing gear, with the purse seiners harvesting the majority of Area 1A landings in recent years (Table 3a). Vessels using single and paired midwater trawls are prohibited from fishing for Atlantic herring in Area 1A from June 1 – September 30 of each fishing year. Some herring vessels use multiple gear types during the fishing year.

Single and pair trawl vessels generally fish in all areas (October-December in Area 1A), though Areas 1A and 1B account for less of the gear types overall landings in recent years (Table 3c). Bottom otter trawl, which includes small mesh<sup>2</sup> bottom trawl, has access to the fishery beginning July 15—landings account for less than 1% of Area 1A landings (Table 3a, 3b). In New Hampshire, small mesh bottom trawl vessels generally target whiting, herring is considered a secondary species and targeted if there are available landing days and a market.

**Table 3a. Overall Atlantic herring landings (mt) by fishing gear type and year in Area 1A.**  
Source: ACCSP

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>% of overall total landings</b>
<b>Bottom Otter Trawl</b>	356	106	100	117	<b>1%</b>
<b>Single Midwater Trawl</b>	270	998	1,164	2,224	<b>4%</b>
<b>Midwater Pair Trawl</b>	3,716	5,504	4,534	4,155	<b>15%</b>
<b>Purse Seine</b>	19,191	23,125	27,151	23,007	<b>80%</b>
<b>Other</b>	4	8	10	28	<b>0%</b>
<b>Total</b>	<b>23,546</b>	<b>29,741</b>	<b>32,957</b>	<b>29,531</b>	

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<sup>2</sup> Small mesh is defined as smaller than 6.5" square or diamond mesh in the cod end of the net.

**Table 3b. Trimester 2 (June – September) Atlantic herring landings (mt) by fishing gear type and year in Area 1A. Source: ACCSP**

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>% of overall total landings</b>
<b>Bottom Otter Trawl</b>	347	95	89	107	<b>0.8%</b>
<b>Single Midwater Trawl</b>	0	0	0	0	<b>0%</b>
<b>Midwater Pair Trawl</b>	0	0	0	0	<b>0%</b>
<b>Purse Seine</b>	17,524	19,984	22,665	20,275	<b>99%</b>
<b>Other</b>	4	7	8	28	<b>0.05%</b>
<b>Total</b>	<b>17,875</b>	<b>20,087</b>	<b>22,762</b>	<b>20,409</b>	

**Table 3c. Trimester 3 (October - December) Atlantic herring landings (mt) by fishing gear type and year in Area 1A. Source: ACCSP**

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>% of overall total landings</b>
<b>Bottom Otter Trawl</b>	9	9	10	10	<b>0%</b>
<b>Single Midwater Trawl</b>	270	998	1,083	2,224	<b>14%</b>
<b>Midwater Pair Trawl</b>	3,703	4,992	4,534	4,155	<b>51%</b>
<b>Purse Seine</b>	1,624	3,132	4,359	2,733	<b>35%</b>
<b>Other</b>	0	0	0	0	<b>0%</b>
<b>Total</b>	<b>5,607</b>	<b>9,130</b>	<b>9,986</b>	<b>9,121</b>	

*Number of Vessels*

In 2016, there were two additional purse seine vessels directing on Atlantic herring when compared to 2015 (4a-c, 5a-b). As a high volume fishery, two additional vessels greatly increases the capacity of the fishery. The following tables illustrate the number of vessels in Area 1A by gear type (4a-c) and the number of vessels directing on herring by federal permit category (5a-b).

In Area 1A from June to September, the overall number of active permits has generally declined, with a small increase in 2016 (Figure 2). The Area 1A sub-ACL has been approximately 30,000 metric tons during this time period, therefore the total removals by permit is increasing, due to a decreasing trend in participation. Given the change in price per pound (Figure 3), this translates into a larger ex-vessel revenue per permit. In 2013, average revenue was \$600,000 per permit, compared to \$1.4 million per permit in 2016.

**Table 4a. Total number of active herring vessels by gear type in Area 1A.**

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016<sup>1</sup></b>	<b>Trends</b>
<b>Bottom Otter Trawl</b>	30	19	18	15	13	Decreasing
<b>Midwater Trawl</b>	9	10	9	11	7	Fluctuating, recent decrease
<b>Purse Seine</b>	8	8	6	5	7	Fluctuating, recent increase
<b>Other</b>	48	31	42	39	20	Decreasing

<sup>1</sup> 2016 data are preliminary

**Table 4b. Number of active herring vessels by gear type in Area 1A during Trimester 2.**

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016<sup>1</sup></b>
<b>Bottom Otter Trawl</b>	29	18	15	12	11
<b>Midwater Trawl</b>	0	0	0	0	0
<b>Purse Seine</b>	8	8	6	5	7
<b>Other</b>	18	13	22	23	17

<sup>1</sup> 2016 data are preliminary

**Table 4c. Number of active herring vessels by gear type in Area 1A during Trimester 3.**

<b>Gear Type</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016<sup>1</sup></b>
<b>Bottom Otter Trawl</b>	5	6	4	5	6
<b>Midwater Trawl</b>	9	10	9	11	7
<b>Purse Seine</b>	5	7	5	5	4
<b>Other</b>	3	4	10	6	5

<sup>1</sup> 2016 data are preliminary

**Table 5a. Active<sup>1</sup> Herring Vessels by Federal Permit Category and Gear Type, Permit Year 2015 (May-Apr)**

<b>Permit Category</b>	<b>Purse Seine</b>	<b>Other<sup>2</sup></b>	<b>Midwater Trawl</b>	<b>Bottom Trawl</b>
<b>A and BC</b>	5		14	7
<b>C</b>				11
<b>D and DE</b>		25		38

Source: GARFO Permit and DMIS database as of 2017-01-03

<sup>1</sup>Permit active if reporting greater than 1 pound of Atlantic herring between May 1, 2015 and April 30, 2016

<sup>2</sup>Other gear types include hand, gillnet, trap, etc.



**Table 5b. Active<sup>1</sup> Herring Vessels by Federal Permit Category and Gear Type, Permit Year 2016<sup>3</sup> (May-Dec), Preliminary Data**

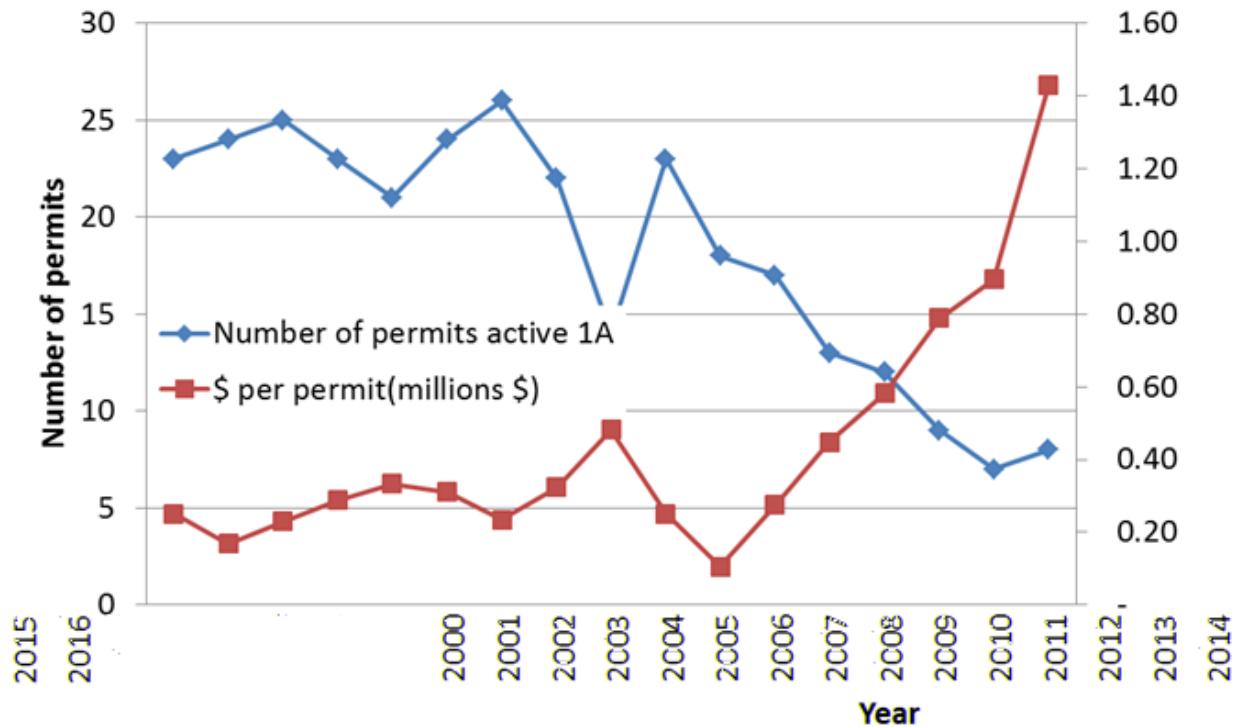
Permit Category	Purse Seine	Other <sup>2</sup>	Midwater Trawl	Bottom Trawl
A and BC	7		14	7
C				9
D and DE		16		26

Source: GARFO Permit and DMIS database as of 2017-01-12

<sup>1</sup>Permit active if reporting greater than 1 pound of Atlantic herring between May 1, 2016 and December 31, 2016

<sup>2</sup>Other gear types include hand, gillnet, trap, etc.

<sup>3</sup> 2016 data are preliminary

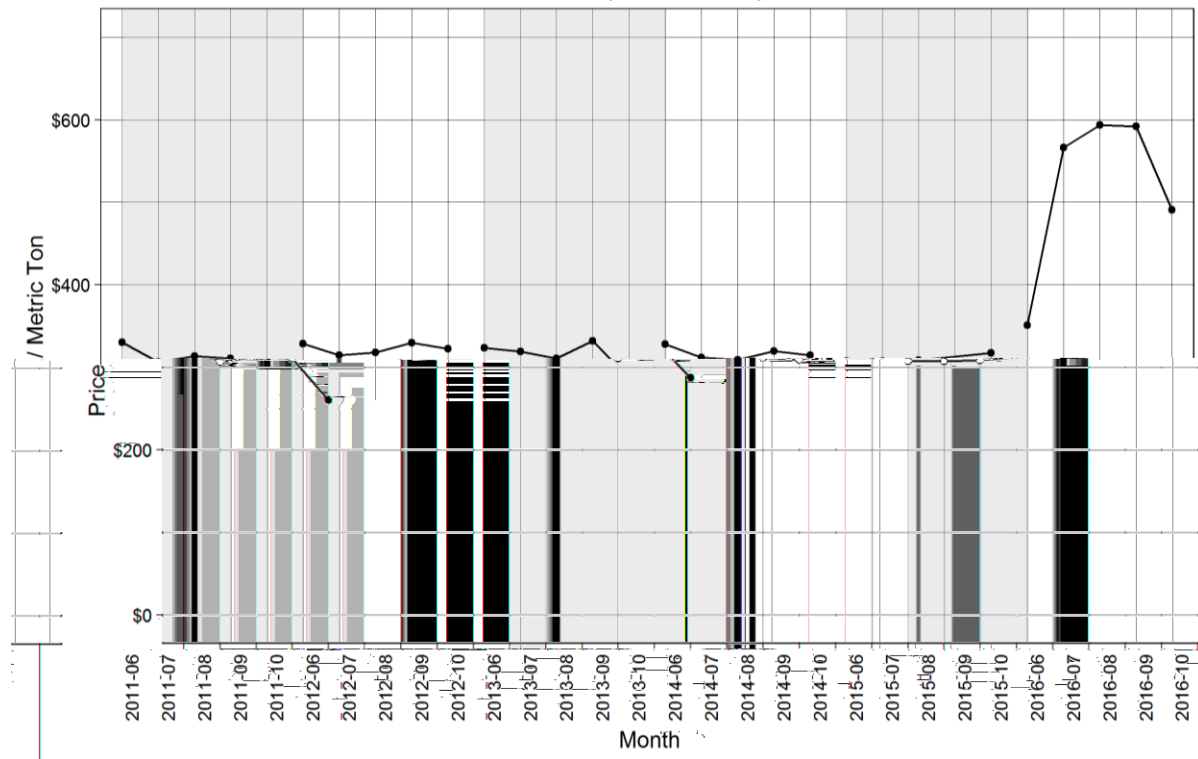


**Figure 2. Number of active permits and average total revenue (average catch times average price/lbs summed) in Area 1A, June through September by year. The data was queried to include the number of active permits that harvested >6,600 lbs to represent the directed fishery.**

### 2.2.3 Market

During June through October of the 2012-2015 fishing season, the average price of herring per metric ton in Area 1A was slightly more than \$300. In 2016, the per metric ton price peaked at approximately \$600 (Figure 3). As described in Section 2.2.1 and in a herring white paper (Harp, 2016), the 2016 Area 1A Atlantic herring fishing season opened in June to almost double the projected landings. For example, three weeks into June the fishery was projected to have harvested 1,300 mt, however 2,837 mt<sup>3</sup> had been harvested. Similar to 2015 but earlier in the season, Area 3 landings became stagnant and Area 1A landings increased

The supply of herring to the bait market during June – October has traditionally come from harvest in Area 1A and 3, collectively these areas comprise more than half of the Atlantic herring annual catch limit. During June-August 2016, the primary source of Atlantic herring landings was from Area 1A only, however, the demand for herring in the summer months exceeds the allowable Area 1A catch limit. The shortage of herring throughout the summer months, when demand is highest, resulted in a two-fold increase in the average price per metric ton.



**Figure 3. Atlantic Herring Area 1A Monthly Average Price per Metric Ton, June-October 2011-2016 (2010 dollars). Source: NMFS**

<sup>3</sup> Preliminary landings data

### **2.2.3 Carrier Vessels and Transfers at Sea**

Federal rules specify a carrier vessel is a vessel that has received herring from another vessel and will not report that catch as its own on its Federal Vessel Trip Report. A carrier vessel can have no gear on board capable of catching or processing fish and it cannot transport species other than herring or groundfish. A harvester vessel is a vessel that is required to report the catch it has aboard as the harvesting vessel on its Federal Vessel Trip Report.

Amendment 5 to the Federal Herring FMP, effective March 2014, provided more flexibility to vessels engaging in carrying activities. Prior to 2014, a vessel could become a carrier vessel if it had a letter of authorization (LOA) from the Regional Administrator. The LOA required a minimum 7-day enrollment period (i.e. time to process and issue the LOA) during such time the vessel could only act as a herring carrier, it could not fish for any species or transport species other than herring or groundfish. After 2014, a vessel can declare what activity it will be engaging in on a trip-by-trip basis (via VMS) rather than being required to remain in one activity for a week at a time.

Amendment 5 also established an At-Sea Herring Dealer Permit. If a carrier vessel intends to sell herring, instead of solely transporting herring to the dock, then a Federal At-Sea Herring Dealer Permit is required. In 2016, 5 permits were issued to carrier vessels, compared to 1 in 2015 (Table 6).

**Table 6. Issued Atlantic Herring At-Sea Dealer Permits, 2012-2016 (Jan-Dec)**

	<b>2012</b>	<b>2013</b>	<b>2014<sup>1</sup></b>	<b>2015<sup>1</sup></b>	<b>2016<sup>1</sup></b>
<b>At-Sea Atlantic Herring Dealer Permit</b>	NA	NA	0	1	5

Source: GARFO Permit database as of 2016-12-28

<sup>1</sup>Atlantic herring at-sea dealer permits were implemented in Amendment 5 effective March, 2014

Amendment 5 to the Federal Herring FMP eliminated VTR reporting requirements for carrier vessels starting in 2014, therefore the number of carrier vessels and trips from 2014-2016 (Table 7) are incomplete and represent minimal amounts. Given these data constraints, the following are the minimum values for carrier activity in 2016; Area 1A had 3 carrier vessels that made 37 trips. In 2013, the last year carrier vessels were required to report activity on VTRs, there were 8 carrier vessels that made 110 trips—the fishery moved to zero landing days on September 9, 2013.

Dockside reports indicate vessels are harvesting herring on days out of the fishery and transferring harvest at-sea to carrier or larger harvester vessels until landing is permitted. The practice of fishing beyond the days that are open to landing is rendering the days out program less effective in controlling the rate of harvest.

**Table 7. Herring Carrier and Transfer and Receive at-Sea Vessels, 2012-2016 (May-Apr)**

		2012	2013	2014 <sup>4</sup>	2015 <sup>4</sup>	2016 <sup>4</sup>
All Management Areas	# of Potential Herring Carrier Vessels <sup>1</sup>	16	19	22	19	19
	# of Herring Carrier Vessels that Harvested Herring <sup>1</sup>	6	8	10	9	7
	Vessels with Transfer and Receive LOA <sup>3</sup>	44	42	39	35	44
Area 1A	Vessels Acting as a Carrier in Area 1A <sup>2</sup>	4	8	7	3	3
	Area 1A Herring Carrier Trips <sup>2</sup>	84	110	59	41	37

Source: GARFO Permit and VTR database as of 12/28/2016

<sup>1</sup>Herring carrier vessels identified by Herring Carrier LOA issuance prior to 2014, or combination of LOA issuance and VMS declaration for 2014 and beyond that reported herring harvest on VTRs.

<sup>2</sup>Herring Area 1A activity determined by carrier trips NOT landing in NJ and NOT reporting menhaden species

<sup>3</sup>Transfer and Receive LOAs allow for transferring OR receiving herring at sea

<sup>4</sup>The implementation of Amendment 5 in March, 2014 eliminated VTR reporting requirements on carrier trips, precluding accurate activity counts for 2014-2016. However, some vessels continued to provide VTRs for carrier trips during these years, which are reflected above. It is important to remember the 2014-2016 activity counts are incomplete and represent minimum amounts.

### **2.2.5 Permits (Federal and State)**

The majority of options under each management alternative are linked to federal permit categories; therefore the following summarizes categories and respective reporting requirements.

#### *Federal Permit Categories to Harvest Herring*

The vast majority of vessels in the Atlantic Herring Area 1A fishery are federally-permitted because Area 1A includes state and federal waters. The Federal Herring FMP established limited and open access programs in the herring fishery. There are five permit categories: 1) limited access permit for all management areas (Category A)<sup>4</sup>; 2) limited access permit for access to Areas 2 and 3 only (Category B); 3) limited access incidental catch permit for 25 mt per trip (Category C); 4) an open access incidental catch permit for 3 mt per trip (Category D); and 5) an open access incidental catch permit for 9 mt in Areas 2 and 3 only (Category E). Category B and

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<sup>4</sup> A vessel is eligible for an All Areas Limited Access Herring Permit (Category A) if it meets the history and landings criteria. To meet the history criteria the vessel must have been issued a Federal herring permit that was valid as of November 10, 2005. To meet the landings requirements the vessel and/or any vessel it replaced must have landed at least 500 mt of herring in any one calendar year between January 1, 1993, and December 31, 2003, as verified by dealer reports submitted to NMFS.

E permitted vessels cannot fish in Area 1A and are not included in this addendum. Category A vessels comprise the majority of the directed Atlantic herring fishery in Area 1A (Table 8).

The following summarizes reporting requirements<sup>5</sup> by permit category: limited access herring vessels are required to report herring catch daily via vessel monitoring systems (VMS), open access herring vessels are required to report catch weekly via the interactive voice response (IVR) system, and all herring-permitted vessels are required to submit vessel trip reports (VTRs) weekly. In addition, vessels<sup>6</sup> must submit VMS pre-trip and pre-landing notifications, as well as a gear declaration. VTRs, in combination with observer data, are used in herring stock assessments, while a combination of dealer data, VTR, VMS, and observer data are used to track catch against herring annual catch limits and catch caps in the herring fishery

**Table 8. Area 1A catch (metric tons) by federally-permitted vessels, 2012-2015**

Permit Category		2012	2013	2014	2015
Limited Access	A	22,703	29,430	32,848	29,386
	C	668	263	39	77
Open Access	D	173	42	63	54

Since 2012, the number of vessels with a Category C or D permit have decreased annually and the number of vessels with a Category A permits have fluctuated (Table 9). In 2016, there were 22 active Category A vessels and 17 latent permits (Table 9).

**Table 9. Fishing vessels with federal Atlantic herring permits, 2012-2016 (May-April).**

Permit Category		2012	2013	2014	2015	2016 <sup>1</sup>
Limited Access	A	42 (57.1%)	39 (66.7%)	40 (62.5%)	42 (50%)	39 (56.4%)
	C	47 (31.9%)	44 (29.5%)	42 (23.8%)	41 (26.8%)	40 (22.5%)
Open Access	D	2,065 (3.5%)	1,957 (3.3%)	1,838 (3.6%)	1,762 (3.4%)	1,684 (2.5%)

Source: GARFO Permit database and DMIS as of 2016-12-23

# is the total number of issued permits; () is the percentage that are active meaning they landed herring within that year.

<sup>1</sup> 2016 data are incomplete

<sup>5</sup> As of 76 FR 54385; September 2011

<sup>6</sup> All limited access herring vessels and vessels issued an Areas 2/3 Open Access Permit

### State Permits

The following provides an overview of state licenses/permits to take, land or sell herring by state (Table 10).

In Maine, all harvesters who catch 2,000 pounds or more Atlantic herring in any given week must possess an *IVR Herring Harvester Permit* on their *Commercial Pelagic and Anadromous Fishing License* issued by the Department of Marine Resources. In Maine waters, a harvester can only use purse seine or fixed gear to harvest herring.

In New Hampshire, a *Commercial Saltwater License* is required for the landing, sale and transport of marine species including, but not limited to, herring. Licenses are issued for the calendar year on an annual basis to the individual. A *Sea Herring Possession Permit* is required for the taking or landing of herring. Permits are issued for the calendar year on an annual basis to the individual or organization. In New Hampshire waters, the use of mobile gear (including purse seine and trawl) to catch finfish is prohibited.

In Massachusetts, all persons who land and sell fish (or any other living marine resources) in Massachusetts must have a *Commercial Fishing Permit* from the Division of Marine Fisheries. In addition, commercial fishermen who intend to land Atlantic herring must also obtain a *Sea Herring Endorsement* on their permit. While there is currently no limit to the number of commercial fishing permits or herring endorsements issued each year, a separate limited-entry *Coastal Access Permit* (CAP) is required to fish with trawl gear inside Massachusetts state waters, which also limits the maximum size of these vessels to 72 feet. This vessel size restriction, combined with a statewide minimum mesh size of 6 ½ inches, effectively prevents herring fishing in Massachusetts waters via midwater trawl or purse seine.

**Table 10. Overview of permits to take, land, or sell herring by state**

State	Permit Type	# of Permits	
		2015	2016
Maine	Herring Landing Permit	182	225
New Hampshire	Sea Herring Possession Permit	3	2
Massachusetts	Sea Herring Endorsement	175	180

**Table 11. Number of herring harvesters with a state permit only (i.e., no federal permit), 2015**

State	2015
Maine	121
New Hampshire	0
Massachusetts	NA

### 3. Management Program

#### MODIFICATIONS TO THE DAYS OUT PROGRAM

##### 3.1 Days Out of the Fishery for Vessels with a Category A Limited Access Herring Permit

*Section 4.2.4.2, Days Out*, in the Atlantic Herring FMP will be replaced with the following:

*Days Out of the Fishery for Vessels with a Category A Limited Access Herring Permit*

Vessels with a Category A Limited Access Permit are prohibited from landing or possessing herring caught from Area 1A during a day out of the fishery. Vessels with a Category A Limited Access Permit may land once per calendar day on any day that is open to landing (i.e., not a 'day out').

Vessels with a Category A Limited Access Permit are not prohibited from participating in other fisheries for other species in restricted areas during days out of the Atlantic herring fishery. Landing of herring taken from management areas without days out restrictions will be allowed on days out in Area 1A. Category A vessels transiting a closed area with more than 2,000 pounds of legally caught herring on board must have all seine and trawl gear stowed.

During a day out, vessels with a Category A Limited Access Permit participating in other fisheries may land an incidental catch of herring that does not exceed 2,000 pounds per trip. Vessels with a Category A Limited Access Permit may not land more than 2,000 pounds of herring per day caught in an area closed to the directed herring fishing. Vessels transiting a closed area with more than 2,000 pounds of legally caught herring on board must have all seine and trawl gear stowed.

Vessels with a Category C Limited Access Permit or a Category D Open Access Herring Permit may land on a day designated as a day out of the fishery, unless restricted by the measures in the '*Small Mesh Bottom Trawl Fleet Days Out*' section. In addition, fixed gear fishermen may remove and land herring from the gear (weirs and stop seines) on the days designated as a day out of the fishery.

##### 3.2 Small Mesh Bottom Trawl (SMBT) Fleet Days Out

A new section, *Days Out of the Fishery for Small Mesh Bottom Trawl Vessels with a Category C or D Herring Permit*, has been added under *Section 4.2.4 Effort Controls* to the Atlantic Herring FMP with the following:

### Days Out of the Fishery for Small Mesh Bottom Trawl Vessels with a Category C or D Herring Permit

If a vessel meets the following criteria it is eligible for a different allocation of landing days and times that are separate from restrictions in *Section 4.2.4.2 Days Out*. A vessel must hold 1) a Category C Limited Access Permit or Category D Open Access Permit, and 2) use small mesh bottom trawl gear to harvest herring. To opt into the differential small mesh bottom trawl Days Out program, eligible harvesters must submit a small mesh bottom trawl gear declaration to notify states of their intent to fish in Area 1A by **June 1**. The annual gear declaration will apply to Trimester 2 (June through September). The process to determine the small mesh bottom trawl days out of the fishery is described under *Section 4.2.4.1*.

### **3.3 Clarification of Days Out Procedure**

*Section 4.2.4.1, Determination of Days Out*, in the Atlantic Herring FMP will be replaced with the following:

To prevent an early closure of a management area or sub-area, 'days out' specifications may be set during the initial meeting between Section members from Maine, New Hampshire, and Massachusetts or can be set at specific 'days out' meetings or conference calls as necessary. The states will come to a consensus when determining the parameters of the Days Out program, which includes, but is not limited to the start date, the number of 'days out' of the fishery, as well as which consecutive days of the week will have landing restrictions. While the start time for the landing restriction may vary by state, the states must implement the landing restriction for the same consecutive days each week.

If Section members from Maine, New Hampshire, and Massachusetts cannot come to a consensus agreement on the specific 'days out', then the default landing day scenario, until an agreement is reached, is zero (0) landing days. If the Section acts to close the Area 1A fishery then the allowable landing days are zero. The matter will go before the full Section for review at the next ASMFC meeting week or at a special meeting of the Section called by the Chairman.

All agreements are final when the meeting is adjourned. Adjustments to 'days out' specifications can only be made if states hold another meeting or conference call and come to a consensus agreement on the specification changes.



## MANAGEMENT TOOLS FOR ANNUAL CONSIDERATION

The following tools are available for the Section to implement. The Section may consider using all, a combination or none of these tools on an annual basis.

### 3.4 Weekly Landing Limit Per Vessel (Pounds)

A new section, *Weekly Landing Limit*, has been added under *Section 4.2.4 Effort Controls* in the Atlantic Herring FMP with the following:

#### *Weekly Harvester Landing Limit for Vessels with a Category A Limited Access Permit*

Vessels with a Category A Limited Access Permit that land herring caught in Area 1A are subject to a weekly harvester landing limit (pounds) during Trimester 2 (June-September). Vessels landing in Maine, New Hampshire and Massachusetts are subject to the same weekly landing limit, regardless of port state.

Section members from Maine, New Hampshire and Massachusetts will meet in-person or conference call prior to the start of the fishing season to agree upon the weekly landing limit based on the number of participants in the fishery and the Trimester 2 seasonal quota.

Harvesters are required to notify states of their intent to fish in Area 1A and the gear type they will be using at least 45 days prior to the start of the fishing season. If more vessels declare intent to participate in the fishery than actually go fishing, the weekly landing limit per vessel could be overly restrictive and result in an underutilization of the Trimester 2 quota. During the fishing season, states will agree on changes to the weekly landing limit, as necessary. ASMFC will publish the initial weekly landing limit and adjustments thereafter.

Vessels with a Category A Limited Access Permit are limited to one landing per 24-hour period. Harvester vessels must notify states according to state-specific protocol prior to landing. While the start time for the weekly landing limit restriction may vary by state, the states must implement the same landing restriction for the same consecutive days each week.

### 3.5 Landing Restriction on Transfers At-Sea

A new section, *Landing Restriction on Transfers At-Sea*, has been added under *Section 4.2, Effort Controls*, in the Atlantic Herring FMP.

The Section members from Maine, New Hampshire and Massachusetts will determine annually at a Days Out meeting if landing restrictions on transfers at-sea are necessary. The restrictions can be specific to federal permit category or gear type. States with no carrier landings are exempt from the following reporting and permitting restrictions.

A carrier vessel is a vessel that has received herring from another vessel and will not report that catch as its own on its Federal Vessel Trip Report. A carrier vessel can have no gear on board capable of catching or processing fish and it cannot transport species other than herring or

groundfish. A harvester vessel is a vessel that is required to report the catch it has aboard as the harvesting vessel on the Federal Vessel Trip Report.

#### No Action

No specific Commission initiated transfer at-sea restrictions; a vessel with the proper permits can transfer or receive Atlantic herring at-sea.

#### Prohibition

Section members from Maine, New Hampshire, and Massachusetts can choose to prohibit transfers at-sea by restricting harvester-to-harvester transfers, harvester-to-carrier vessel transfers, or both.

*For harvester-to-carrier transfer at-sea restriction:* A harvester vessel is the only vessel that can land herring caught within Area 1A to a Maine, New Hampshire or Massachusetts port.

*For harvester-to-harvester transfer at-sea restriction:* A harvester vessel can land herring caught by the respective vessel and has the ability to transfer herring to a carrier vessel. A harvester vessel cannot transfer herring to another harvester vessel at-sea.

#### Limited Transfers

Harvester vessels landing herring caught in Area 1A to a Maine, New Hampshire or Massachusetts port are limited to making at-sea transfers to only one carrier vessel per week. Carrier vessels landing herring caught in Area 1A to a Maine, New Hampshire or Massachusetts port are limited to receiving at-sea transfers from one harvester vessel per week. Carrier vessels landing herring caught in Area 1A in any Maine, New Hampshire or Massachusetts port are limited to making one landing per 24 hour period.

### **3.6 State Landing Report**

*Section 4.2.5, Timely Reporting of State Landings* in the Atlantic Herring FMP will be modified to include the following:

#### State Landing Report

In April 2017, state representatives from Maine, New Hampshire and Massachusetts were granted access to daily catch data via the vessel monitoring system (VMS) pre-trip landing reports from the National Marine Fisheries Service, Office of Law Enforcement. As a result, the implementation of a proposed state landing report is not necessary at this time. Should access to the daily catch data be rescinded, then the Section can require harvesters to complete a state landing report as described below.

If a vessel lands herring caught from Area 1A in a Maine, New Hampshire or Massachusetts port then the harvester must submit a state landing report. The state landing report is in addition to the federal reporting requirements. The reports must be submitted in 24-hr intervals for each day and must be submitted by 9:00 a.m. of the following day.

States will develop the format for the state landing report and the reporting system to aggregate the data. Data will be uploaded into ACCSP to ensure landings are not double-counted and confidentiality rules are upheld. The state vessel landing reports will be used to monitor the seasonal quota, transfers at sea and potentially the vessel weekly landing limits.

As specified in the federal Herring FMP, vessels with limited access herring permits must report catch (retained and discarded) of herring daily via VMS, unless granted an exemption. Daily Atlantic herring VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 9:00 a.m. of the following day. Reports are required even if herring caught that day has not yet been landed.

In addition, an owner or operator of any vessel issued an open access permit for Atlantic herring that catches  $\geq 2,000$  lb (907.2 kg) of Atlantic herring on any trip in a week must submit an Atlantic herring catch report via the IVR system for that week. The IVR reporting week begins on Sunday at 12:01 AM local time and ends Saturday at 12 midnight. Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight, Eastern Time, each Tuesday for the previous week. Reports are required even if herring caught during the week has not yet been landed.

State law enforcement officials can report non-compliance with state and federal reporting requirements to the appropriate authorities.

#### **4. Compliance Schedule**

States must implement Addendum I according to the following schedule to be in compliance with the Atlantic Herring FMP:

**June 1, 2017:** All applicable states must implement Addendum IV into their management programs prior to this deadline.

#### **5. Literature Cited**

Harp, A. (2016). *White Paper on Atlantic Herring Area 1A Fishery Performance in 2015 and 2016*. Atlantic States Marine Fisheries Commission.  
[http://www.asmfmc.org/uploads/file/58124582AtlHerringArea1AFisheryPerformance\\_2015\\_2016.pdf](http://www.asmfmc.org/uploads/file/58124582AtlHerringArea1AFisheryPerformance_2015_2016.pdf)

New England Fishery Management Council (NEFMC). (2013). *Amendment 5 to the Fishery Management Plan for Atlantic Herring*. Draft Supplemental Environmental Impact Statement. Final document submitted March 25, 2013