

DRAFT

Atlantic Herring Fishery Specifications

**for the 2016-2018 Fishing Years
(January 1, 2016 – December 31, 2018)**



**Prepared by the
New England Fishery Management Council**

in consultation with
Atlantic States Marine Fisheries Commission
National Marine Fisheries Service
Mid-Atlantic Fishery Management Council

Date: DRAFT FOR HERRING PDT SEPTEMBER 1, 2015

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ABC	Acceptable Biological Catch
ABC CR	ABC Control Rule
ACL	Annual Catch Limit
AM	Accountability Measure
ASMFC	Atlantic States Marine Fisheries Commission or Commission
B	Biomass
BT	Border Transfer
CAA	Catch at Age
CC	Cape Cod
CZMA	Coastal Zone Management Act
DAH	Domestic Annual Harvest
DAP	Domestic Annual Processing
DMF	Division of Marine Fisheries
DMR	Department of Marine Resources
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment
EEZ	Exclusive Economic Zone
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
E.O.	Executive Order
ESA	Endangered Species Act
F	Fishing Mortality Rate
FEIS	Final Environmental Impact Statement
FGSA	Fixed Gear Set-Aside
FMP	Fishery Management Plan
FW	Framework
FY	Fishing Year
GB	Georges Bank
GMRI	Gulf of Maine Research Institute
GOM	Gulf of Maine
IFM	Industry-Funded Monitoring
IVR	Interactive Voice Response
IWP	Internal Waters Processing
JVP	Joint Venture Processing
M	Natural Mortality Rate
MA DMF	Massachusetts Division of Marine Fisheries

MAFMC	Mid-Atlantic Fishery Management Council
ME DMR	Maine Department of Marine Resources
MMPA	Marine Mammal Protection Act
MRFSS	Marine Recreational Fisheries Statistical Survey
MSA	Magnuson-Stevens Fishery Conservation and Management Act
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
MSY	Maximum Sustainable Yield
mt	Metric Tons
NB	New Brunswick
NEFMC	New England Fishery Management Council
NEFOP	Northeast Fisheries Observer Program
NEFSC	Northeast Fisheries Science Center
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NSGs	National Standard Guidelines
OFL	Overfishing Limit
OY	Optimum Yield
PDT	Plan Development Team
PS/FG	Purse Seine/Fixed Gear
RFA	Regulatory Flexibility Act
RFFA	Reasonably Foreseeable Future Action
RH/S	River Herring/Shad
RIR	Regulatory Impact Review
RSA	Research Set-Aside
SARC	Stock Assessment Review Committee
SAW	Stock Assessment Workshop
SSB	Spawning Stock Biomass
SSC	Scientific and Statistical Committee
SFA	Sustainable Fisheries Act
SNE/MA	Southern New England/Mid-Atlantic
TC	Technical Committee
TRAC	Transboundary Resource Assessment Committee
TRT	Take Reduction Team
USAP	U.S. At-Sea Processing
VMS	Vessel Monitoring System
VTR	Vessel Trip Report

1.0 INTRODUCTION

This document contains the New England Fishery Management Council's recommendations for the Atlantic herring fishery specifications for the 2016-2018 fishing years, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Atlantic Herring Fishery Management Plan (FMP), initially approved by the National Marine Fisheries Service (NMFS) on October 27, 1999. This document also contains information and supporting analyses required under other applicable law, including the National Environmental Policy Act (NEPA) and Regulatory Flexibility Act (RFA).

The Atlantic herring fishery specifications are annual amounts specified for the 2016-2018 fishing years (January – December), including:

- Overfishing Limit (OFL);
- Acceptable Biological Catch (ABC);
- Stock-wide Atlantic Herring Annual Catch Limit (ACL) = U.S. Optimum Yield (OY);
- Domestic Annual Harvest (DAH);
- Domestic Annual Processing (DAP);
- U.S. At-Sea Processing (USAP);
- Border Transfer (BT, U.S.-caught herring transferred to Canadian vessels for export);
- Management Area sub-ACLs;
- Research Set-Asides (RSA);
- Fixed Gear Set-Aside (FGSA);
- Seasonal (Monthly) Sub-ACL Divisions; and
- Gear/Area-Specific Catch Caps for River Herring and Shad (RH/S).

1.1 BACKGROUND

The Atlantic herring (*Clupea harengus*) fishery specifications are annual amounts recommended by the New England Fishery Management Council every three years through a process established in the Atlantic Herring FMP (and modified in Amendments 1 and 4). In recognition of the spatial structure of the Atlantic herring stock complex (multiple stock components that separate to spawn and mix during other times of the year), the total annual catch limit for Atlantic herring (stockwide ACL/OY) is divided and assigned as sub-ACLs to four management areas (see Figure 1 on p. 3). Management Area 1 represents the Gulf of Maine (GOM), which is divided into an inshore (Area 1A) and offshore section (Area 1B). Area 2 is located in the coastal waters between MA and NC (southern New England/Mid-Atlantic), and Area 3 represents the offshore Georges Bank (GB) area. The Council utilizes the best available information to consider the proportion of each spawning component of the Atlantic herring stock

complex in each area/season and distribute the sub-ACLs such that the risk of overfishing an individual spawning component is minimized to the extent practicable.

Amendment 1 to the Herring FMP (2006) established a process that allows the Council to set multi-year (up to three fishing years) specifications. In Amendment 4, the Council updated the Atlantic herring specifications process to ensure consistency with the newly-implemented provisions of the MSA and implemented provisions for annual catch limits (ACLs) and accountability measures (AMs) in the Atlantic herring fishery. The Council opted to retain the general provisions for establishing specifications for the Atlantic herring fishery but eliminated the need to annually specify Joint Venture Processing (JVP), Internal Waters Processing (IWP), Total Allowable Level of Foreign Fishing (TALFF), and a sub-ACL reserve. While TALFF will not have to be considered by the Council during the specifications process, countries interested in foreign fishing for herring may still request TALFF allocations from NMFS, and these requests will be addressed as they arise. Framework 2 paralleled the 2013-2015 Atlantic herring fishery specifications and authorized the Council to split Atlantic herring sub-ACLs seasonally (by month) during the specifications process. It also established a general policy for authorizing annual carryover of unutilized sub-ACL (up to 10%) under specific conditions.

Framework 3 to the Atlantic Herring FMP became effective in late 2014 and established provisions for gear-specific and/or area-specific RH/S catch caps, which apply to vessels participating in the directed Atlantic herring fishery. Framework 3 also specified RH/S catch caps for the 2014 and 2015 fishing years and included provisions to allow future RH/S catch caps to be specified through the Atlantic herring fishery specifications process. The RH/S catch cap areas established in Framework 3 are shown in Figure 1.

Table 1 and Table 2 summarize the current (2013-2015) Atlantic herring fishery specifications as well as the 2014/2015 RH/S catch caps that were implemented in Framework 3.

Figure 1 Atlantic Herring Management Areas (Lines) and RH/S Catch Cap Areas (Shaded)

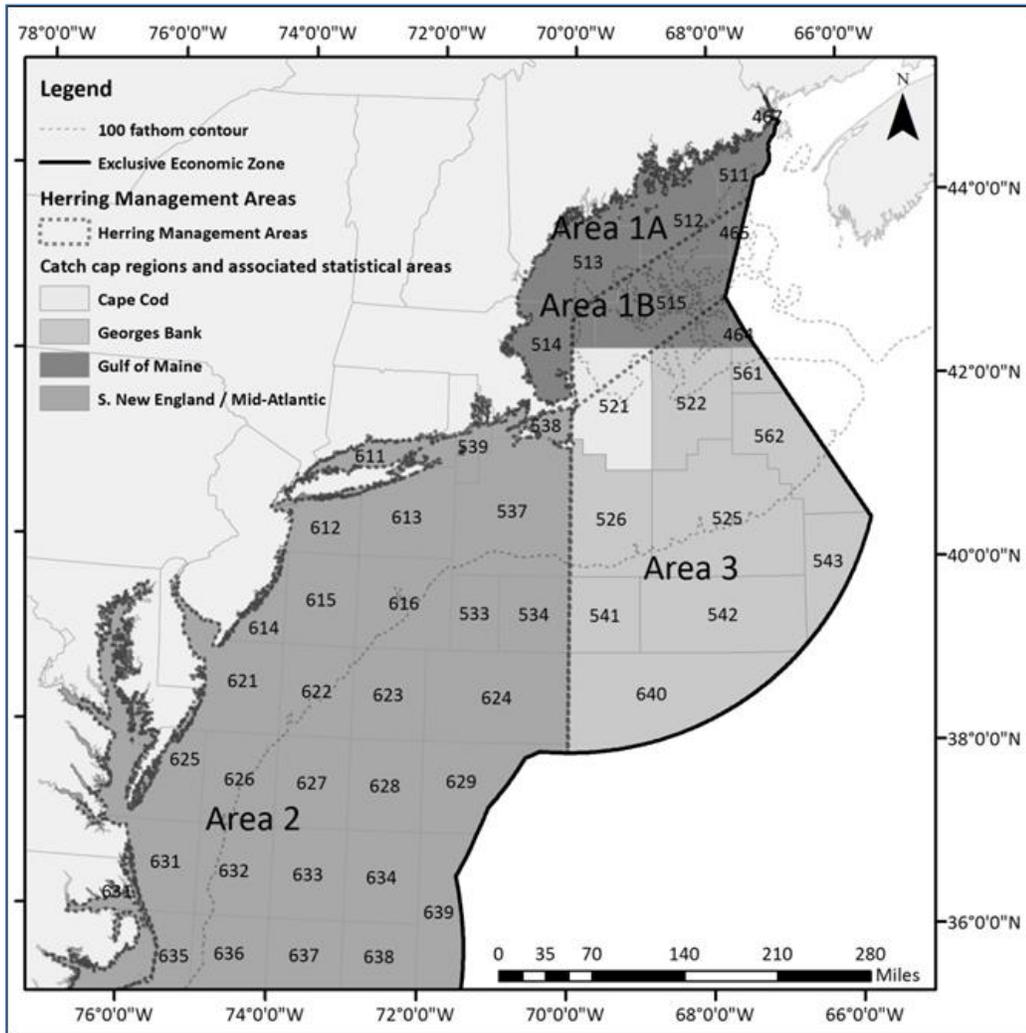


Table 1 Current (2013-2015) Atlantic Herring Specifications (Initial Allocations)

SPECIFICATION	2013-2015 INITIAL ALLOCATION (MT)
Overfishing Limit (OFL)	169,000 – 2013 136,000 – 2014 114,000 – 2015
Acceptable Biological Catch (ABC)	114,000
U.S. Optimum Yield (OY)/Annual Catch Limit (ACL)	107,800
Domestic Annual Harvesting (DAH)	107,800
Domestic Annual Processing (DAP)	103,800
U.S. At-Sea Processing (USAP)	N/A
Border Transfer (BT)	4,000
Sub-ACL Area 1A (28.9% of ACL)	31,200
Sub-ACL Area 1B (4.3% of ACL)	4,600
Sub-ACL Area 2 (27.8% of ACL)	30,000
Sub-ACL Area 3 (39% of ACL)	42,000
Research Set-Aside (RSA)	3% of each sub-ACL
Fixed Gear Set-Aside (1A)	295

Seasonal Sub-ACL Distributions for 2014 and 2015

- Area 1A: 0% January-May; 100% June-December
- Area 1B: 0% January-April; 100% May-December

Table 2 Current (2014-2015) RH/S Catch Caps

Area	2014-2015 RH/S Catch Cap (mt)
GOM	Midwater Trawl – 85.5
CC	Midwater Trawl – 13.3
SNE/MA	Midwater Trawl – 123.7 Bottom Trawl – 88.9
GB	0

**RH/S Catch Cap Areas shown in Figure 1.*

1.2 PURPOSE AND NEED

The purpose of this action is to specify the overfishing level (OFL) and allowable biological catch (ABC) for the Atlantic herring fishery, and to set specifications for the 2016-2018 fishing years consistent with the best available science and the requirements of the Atlantic Herring FMP, while providing additional flexibility and promoting the full utilization of optimum yield (OY). The requirement to set multi-year specifications is also needed to prevent overfishing and, pursuant to the requirements of the MSA, the specifications and RH/S catch caps are needed to ensure that the Atlantic herring management program addresses and minimizes bycatch to the extent practicable.

The 2016-2018 Atlantic herring fishery specifications are intended to meet the goal and several of the objectives of the Atlantic Herring FMP, as modified in Amendment 1:

Goal

- Manage the Atlantic herring fishery at long-term sustainable levels consistent with the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act.

Objectives

- Harvest the Atlantic herring resource consistent with the definition of overfishing contained in the Herring FMP and prevent overfishing;
- Prevent the overfishing of discrete spawning components of Atlantic herring;
- Avoid patterns of fishing mortality by age which adversely affect the age structure of the stock;
- Provide for long-term, efficient, and full utilization of the optimum yield from the herring fishery while minimizing waste from discards in the fishery. Optimum yield is the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, taking into account the protection of marine ecosystems, including maintenance of a biomass that supports the ocean ecosystem, predator

consumption of herring, and biologically sustainable human harvest. This includes recognition of the importance of Atlantic herring as one of many forage species of fish, marine mammals, and birds in the Northeast Region;

- Minimize, to the extent practicable, the race to fish for Atlantic herring in all management areas;
- Provide, to the extent practicable, controlled opportunities for fishermen and vessels in other mid-Atlantic and New England fisheries;
- Promote and support research, including cooperative research, to improve the collection of information in order to better understand herring population dynamics, biology and ecology, and to improve assessment procedures;
- Promote compatible US and Canadian management of the shared stocks of herring; and
- Continue to implement management measures in close coordination with other Federal and State FMPs and the ASMFC management plan for Atlantic herring, and promote real-time management of the fishery.

1.3 DEFINITIONS AND FORMULAS

The following definitions/formulas were adopted in the Atlantic Herring FMP (modified in Amendment 4) and are described below as they apply to the 2016-2018 Atlantic herring fishery specifications.

Overfishing Level (OFL). The catch that results from applying the maximum fishing mortality threshold to a current or projected estimate of stock size. When the stock is not overfished and overfishing is not occurring, this is usually F_{MSY} or its proxy.

$$OFL \geq ABC \geq ACL$$

The proposed Atlantic herring OFL specification for 2016-2018 is derived from short-term projections following the 2015 Atlantic herring update assessment and was recommended by the SSC at its May 20, 2015 meeting.

Acceptable Biological Catch (ABC) – The maximum catch that is recommended for harvest, consistent with meeting the biological objectives of the management plan. The MSA interpretation of ABC includes consideration of biological uncertainty (stock structure, stock mixing, other biological/ecological issues), and recommendations for ABC should come from the Council’s SSC. ABC can equal but never exceed the OFL.

$$OFL - \text{Scientific Uncertainty} = ABC \text{ (Determined by SSC)}$$

The proposed Atlantic herring ABC specification for 2016-2018 is derived from short-term projections following the 2015 Atlantic herring update assessment and was recommended by the SSC at its May 20, 2015 meeting.

ABC Control Rule (ABC CR). The specified approach to setting the ABC for a stock or stock complex as a function of scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC control rule will consider uncertainty in factors such as stock assessment issues, retrospective patterns, predator-prey issues, and projection results. The ABC control rule will be specified and may be modified based on guidance from the SSC during the specifications process. Modifications to the ABC control rule can be implemented through the specifications package or framework adjustments to the Herring FMP (in addition to future amendments), as appropriate.

The current ABC CR for Atlantic herring is described below. This ABC CR considered an interim control rule, i.e., a placeholder until the Council can develop a long-term control rule through a more comprehensive management action. The Council initiated Amendment 8 to the Atlantic Herring FMP in January 2015 to consider a range of alternatives to establish a long-term ABC CR for Atlantic herring, including alternatives that account for Atlantic herring's role in the ecosystem. For the 2016-2018 Atlantic herring fishery specifications, however, the Council, based on recommendations from its SSC (May 20, 2015), will continue to base the annual specification of ABC on the interim ABC CR.

Interim ABC Control Rule: Under the interim ABC CR, ABC will be specified for three years based on the annual catch that is projected to produce a probability of exceeding F_{MSY} in the third year that is less than or equal to 50%. For 2016-2018, this value is 110,000 mt (see Section 2.1.1 of this document, p. 11).

Annual Catch Limit (ACL) – A stock-wide ACL will be established that accounts for both scientific uncertainty (through the specification of ABC) and management uncertainty (through the specification of the stock-wide ACL and buffer between ABC and the ACL).

The ACL is the annual catch level specified such that the risk of exceeding the ABC is consistent with the management program. The ACL can be equal to but can never exceed the ABC. ACL should be set lower than the ABC as necessary due to uncertainty over the effectiveness of management measures. The stockwide Atlantic herring ACL equates to the U.S. optimum yield (OY) for the Atlantic herring fishery and serves as the level of catch that determines whether accountability measures (AMs) become effective.

$$\text{ABC} - \text{Management Uncertainty} = \text{Stock-wide ACL} = \text{OY}$$

Sub-ACLs – Area-based sub-divisions of the stockwide/total Atlantic herring ACL, intended to minimize the risk of overfishing any stock sub-component. The Council has chosen to apply Accountability Measures (AMs) to the sub-ACLs (closure of the area at 92%), further reducing the risk of overfishing.

Accountability Measure(s) (AMs). Management measures established to ensure that (1) the ACL is not exceeded during the fishing year; and (2) any ACL overages, if they occur, are mitigated and corrected.

Domestic Annual Harvest (DAH). DAH is established based on the expected catch from U.S. fishing vessels during the upcoming fishing year(s). The Herring FMP, as modified in Amendment 4, specifies that OY is equal to DAH.

$$\text{OY} = \text{DAH}$$

The Herring FMP, as modified in Amendment 4, also specifies that domestic annual harvest (DAH) will be composed of domestic annual processing (DAP) and the amount of Atlantic herring that can be taken in U.S. waters and transferred to Canadian herring carriers for transshipment to Canada (BT).

$$\text{DAH} = \text{DAP} + \text{BT}$$

Domestic Annual Processing (DAP) – The amount of U.S. harvest that domestic processors will use, combined with the amount of the resource that will be sold as fresh fish (including bait). The Herring FMP specifies that DAP is a subset of DAH and is composed of estimates of production from U.S. shoreside and at-sea processors. The Herring FMP authorizes the allocation of a portion of DAP for at-sea processing by domestic processing vessels that exceed the current size limits (U.S. at-sea processing, USAP).

U.S. At-Sea Processing (USAP) – Domestic at-sea processing capacity by U.S. vessels that exceed current size limits (0 mt for 2013-2015 fishery specifications). When determining the USAP allocation, the Council should consider the availability of other processing capacity, development of the fishery, status of the resource, and opportunities for vessels to enter the herring fishery.

Border Transfer (BT) – The amount of herring that can be taken in U.S. waters and transferred to Canadian herring carriers for transshipment to Canada, (4,000 mt for 2013-2015 and previous specifications).

Research Set-Aside (RSA) – (RSAs) are allowed in any or all of the herring management areas with a sub-ACL of 0-3%.

Fixed Gear Set-Aside (FGSA) – This can be specified up to 500 mt in Area 1A and will be returned to the 1A sub-ACL if not utilized by November 1.

2.0 PROPOSED MANAGEMENT ACTION AND OTHER ALTERNATIVES CONSIDERED

This section describes the 2016-2018 Atlantic herring fishery specifications and RH/S catch caps proposed by the New England Fishery Management Council as well as other alternatives/options that the Council considered during the specifications process.

- The alternatives for the fishery specifications, including the Preferred Alternative, are described in Section 2.1 (p. 9).
- Information and rationale to support the Council's Preferred Alternative for the 2016-2018 Atlantic herring fishery specifications is provided in Section 2.2 (p. 15).
- The options for the 2016-2018 RH/S catch caps, including the Preferred Alternative, are described in Section 2.3 (p. 27).

The impacts of all alternatives/options considered by the Council on the affected biological, physical, and human environment are discussed in Section 4.0 of this document (p. 88).

2.1 2016-2018 ATLANTIC HERRING FISHERY SPECIFICATIONS

The development of the 2016-2018 Atlantic herring fishery specifications package was a multi-step decision-making process that involved the Council, the Scientific and Statistical Committee (SSC), and the Herring Plan Development Team (PDT), with input from the Herring Committee and Herring Advisory Panel (AP). The alternatives under consideration by the Council for the 2016-2018 specifications are described individually in the following subsections and are summarized in Table 3 below. These alternatives are based on the SSC's recommendations for OFL and ABC (see discussion in following subsection).

Table 3 Alternatives Under Consideration for 2016-2018 Atlantic Herring Fishery Specifications

Specifications	No Action Alternative (2015 Specifications)	Alternative 2	Alternative 3 <i>Preferred Alternative</i>
OFL	114,000	2016 – 138,000 2017 – 117,000 2018 – 111,000	2016 – 138,000 2017 – 117,000 2018 – 111,000
ABC	114,000	111,000	111,000
Management Uncertainty	6,200 (3 year avg. 2009-2011)	3,000 (3 year avg. 2012-2014)	6,200 (Value in 2015)
ACL/OY	107,800	108,000 ¹	104,800 ¹
DAH	107,800	108,000	104,800
DAP	103,800	104,000	100,800
USAP	0	0	0
BT	4,000	4,000	4,000
1A Sub-ACL	31,200	31,212	30,300
1B Sub-ACL	4,600	4,644	4,500
2 Sub-ACL	30,000	30,024	29,100
3 Sub-ACL	42,000	42,120	40,900
RSA	3%	3%	3%
FGSA	295	295	295

¹ *Option for Alternatives 2 and 3* – If, by considering landings through **October 1 or October 15 (TBD)**, NMFS determines that less than 4,000 mt has been caught in the NB weir fishery, NMFS will allocate an additional 1,000 mt to the Area 1A sub-ACL to be made available to the directed herring fishery during November and through the remainder of the fishing year (until the AM is triggered).

**The Preferred Alternative is shaded in grey.*

2.1.1 Background – OFL and ABC Specifications for 2016-2018

Following the Atlantic herring operational (update) assessment meeting (April 2015), the SSC met on May 20, 2015 to review the operational assessment results and develop recommendations for the Atlantic herring overfishing limit (OFL) and acceptable biological catch (ABC) specifications for the 2016-2018 fishing years. The SSC reviewed a number of projections and possible approaches for specifying ABC (control rules) and recommended that the Council specify ABC for the 2016-2018 fishing years based on the interim ABC control rule for Atlantic herring (adopted in the 2013-2015 fishery specifications). The interim ABC control rule utilizes a constant catch approach, with the annual ABC set such that the probability of overfishing does not exceed 50% in any of those years (but may reach 50% in the third year). This approach produces an ABC specification of 111,000 mt for 2016, 2017 and 2018, and associated OFLs of 138,000 mt in 2016, 117,000 mt in 2017, and 111,000 mt in 2018. The SSC provided the following rationale for this recommendation:

- Key attributes of the stock and assessment (SSB, recruitment, F, survey indices, etc.) have not changed significantly since the benchmark assessment, on which the current control rule was based. However, survey indices suggest that the 2011 year class is the second largest in time series and will contribute significantly to the total population abundance and biomass in 2016-2018.
- The most significant change since the benchmark stock assessment (SAW 54, 2012) is that the retrospective pattern has become worse in the operational assessment. The assessment implemented a Mohn's rho correction to SSB in an attempt to account for the retrospective pattern, but there is no guarantee that the retrospective pattern will persist in sign and magnitude.
- Although the probability of overfishing may reach 50% in the third year, the probability of the stock becoming overfished is close to 0% in all years (see OFL/ABC projections in Section 4.1.1.2, p 92).
- The realized catch in the Atlantic herring fishery is generally well below the ABC, which reduces the expected risk of overfishing.
- In the assessment model, the current ratio of catch to estimated consumption is 1:4, which means that fishing is likely not the largest driver of stock abundance at present, however this does not negate the need to manage the fishing removals on this stock.
- A constant catch strategy is the preferred approach of the Council and the industry.

The considerations above led the SSC to conclude that ABC should remain relatively constant for 2016-2018, or perhaps be reduced modestly. The recommended ABC of 111,000 mt, compared with status quo estimate of 114,000 mt, achieves that outcome. Additionally, the SSC noted that the current high herring biomass, bolstered by two very large year classes, likely meets ecosystem goals by default and not design, as ecosystem goals are not identified or captured in the current ABC control rule.

2.1.2 Alternative 1 (No Action Alternative)

Alternative 1 represents the no action alternative. This alternative would maintain the 2015 Atlantic herring fishery specifications for the 2016-2018 fishing years. The specifications that would be implemented under the no action alternative are listed in Table 4. Under the no action alternative, specification of Atlantic herring ABC would remain at 114,000 mt, which is above the SSC recommendation for 2016-2018 (111,000 mt). Specification of the management uncertainty buffer would be based on the most recent three-year average catch in the New Brunswick weir fishery (2009-2011, based on 2013-2015 Atlantic herring fishery specifications).

Table 4 Alternative 1 (No Action) for 2016-2018 Atlantic Herring Specifications

Specifications	No Action Alternative 2015 Specifications (metric tons)
OFL	114,000
ABC	114,000
Management Uncertainty	6,200 (3 year average 2009-2011)
ACL/OY	107,800
DAH	107,800
DAP	103,800
USAP	0
BT	4,000
Area 1A Sub-ACL (28.9%)	31,200
Area 1B Sub-ACL (4.3%)	4,600
Area 2 Sub-ACL (27.8%)	30,000
Area 3 Sub-ACL (39%)	42,000
RSA	3%
FGSA	295

Alternative 1 Seasonal (Monthly) Sub-ACL Divisions (2016-2018)

- Area 1A: 0% January-May; 100% June-December;
- Area 1B: 0% January-April; 100% May-December.

2.1.3 Alternative 2 (Non-Preferred)

Alternative 2 would specify Atlantic herring ABC at the level recommended by the SSC (111,000 mt), and would maintain a status quo approach to specifying the management uncertainty buffer for 2016-2018, using the most recent three-year average catch in the NB weir fishery. In this case, the average from 2012-2014 was 3,000 mt. This alternative would also maintain a status quo approach to all other Atlantic herring fishery specifications, including set-asides and the seasonal (monthly) distribution of sub-ACLs. The Council is considering an option that would allow for 1,000 mt of Atlantic herring to be returned to the Area 1A fishery from the management uncertainty buffer if certain conditions are met (see below). The specifications that would be implemented under Alternative 2 are listed in Table 5.

Table 5 Alternative 2 (Non-Preferred) for 2016-2018 Atlantic Herring Specifications

Specifications	Alternative 2 (metric tons)
OFL	2016 – 138,000 2017 – 117,000 2018 – 111,000
ABC	111,000
Management Uncertainty	3,000 (3 year average 2012-2014)
ACL/OY	108,000 ¹
DAH	108,000
DAP	104,000
USAP	0
BT	4,000
Area 1A Sub-ACL (28.9%)	31,212
Area 1B Sub-ACL (4.3%)	4,644
Area 2 Sub-ACL (27.8%)	30,024
Area 3 Sub-ACL (39%)	42,120
RSA	3%
FGSA	295

¹*Option* – If, by considering landings through **October 1 or October 15 (TBD)**, NMFS determines that less than 4,000 mt has been caught in the NB weir fishery, NMFS will allocate an additional 1,000 mt to the Area 1A sub-ACL to be made available to the directed herring fishery during November and through the remainder of the fishing year (or until the AM is triggered). If this occurs, the stockwide ACL would increase to **109,000 mt** under this alternative.

Alternative 2 Seasonal (Monthly) Sub-ACL Divisions (2016-2018)

- Area 1A: 0% January-May; 100% June-December;
- Area 1B: 0% January-April; 100% May-December.

2.1.4 Alternative 3 (Preferred Alternative)

Alternative 3 was developed by the Herring Committee at its July 22, 2015 meeting and represents the **Preferred Alternative** for the 2016-2018 Atlantic herring fishery specifications **at this time**. Alternative 3 would specify Atlantic herring ABC at the level recommended by the SSC (111,000 mt) and would maintain the 2013-2015 specification of management uncertainty for 2016-2018. Under Alternative 3, the management uncertainty buffer would be specified at 6,200 mt to account for catch in the NB weir fishery (average catch 2009-2011). This alternative would maintain a status quo approach to all other Atlantic herring fishery specifications for 2016-2018, including set-asides and the seasonal (monthly) distribution of sub-ACLs. The Council is also considering an option that would allow for 1,000 mt of Atlantic herring to be returned to the Area 1A fishery from the management uncertainty buffer if certain conditions are met (see below). The specifications that would be implemented under Alternative 3 are listed in Table 6.

Table 6 Alternative 3 (Preferred Alternative) for 2016-2018 Atlantic Herring Specifications

Specifications	Alternative 3 <i>Preferred Alternative</i>
OFL	2016 – 138,000 2017 – 117,000 2018 – 111,000
ABC	111,000
Management Uncertainty	6,200 (Value in 2015)
ACL/OY	104,800 ¹
DAH	104,800
DAP	100,800
USAP	0
BT	4,000
Area 1A Sub-ACL (28.9%)	30,300
Area 1B Sub-ACL (4.3%)	4,500
Area 2 Sub-ACL (27.8%)	29,100
Area 3 Sub-ACL (39%)	40,900
RSA	3%
FGSA	295

¹*Option* – If, by considering landings through **October 1 or October 15 (TBD)**, NMFS determines that less than 4,000 mt has been caught in the NB weir fishery, NMFS will allocate an additional 1,000 mt to the Area 1A sub-ACL to be made available to the directed herring fishery during November and through the remainder of the fishing year (until the AM is triggered). If this occurs, the stockwide ACL would increase to **105,800 mt** under this alternative.

Alternative 3 Seasonal (Monthly) Sub-ACL Divisions (2016-2018)

- Area 1A: 0% January-May; 100% June-December;
- Area 1B: 0% January-April; 100% May-December.

2.2 SUPPORTING INFORMATION AND RATIONALE FOR PROPOSED 2016-2018 ATLANTIC HERRING SPECIFICATIONS

This section provides updated information and rationale to support the Council’s *Preferred Alternative* for the 2016-2018 Atlantic herring fishery specifications. Because the specification of ABC for the 2016-2018 fishing years (recommended by the SSC, see Section 2.1.1) only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%), and because available stock/fishery information does not indicate a need to consider major changes to the distribution of allowable catch or other specifications, the alternatives that the Council considered maintain the status quo for many of the specifications; they differ primarily through the specification of the management uncertainty buffer and the stockwide Atlantic herring ACL.

2.2.1 Specification of Management Uncertainty and Stockwide Atlantic Herring ACL/OY

The difference between the Atlantic herring ABC and the stockwide ACL equates to what the Council specifies as management uncertainty. The management uncertainty specification further ensures that Atlantic herring catch will not exceed the ABC in a given year by buffering against uncertainty related to the management system. The deduction for management uncertainty occurs based on the SSC’s recommendation for ABC (111,000 mt) to derive a stockwide ACL, which represents the U.S. Atlantic herring OY for 2016-2018.

During the specifications process, the Council considered a range of deductions of management uncertainty based on three possible factors:

1. Canadian Catch of Atlantic Herring (New Brunswick (NB) Weir Fishery);
2. Uncertainty Around Estimates of State Waters Atlantic Herring Catch; and
3. Uncertainty Around Estimates of Atlantic Herring Discards.

Canadian Catch of Atlantic Herring (New Brunswick Weir Fishery)

Catch of the Gulf of Maine/Georges Bank Atlantic herring stock complex in Canadian waters consists primarily of fish caught in the New Brunswick (NB) weir fishery (the SARC 54 Panel noted that the contribution of the Atlantic herring stock on the Scotian Shelf region is unknown).

Table 7 provides the time series of Atlantic herring catch that was used in the 2015 operational Atlantic herring assessment, including catch from the NB weir fishery through the 2014 fishing year. NB weir fishery catch is not tracked in-season against the Atlantic herring ACL. Rather, the annual expected catch in the NB weir fishery is estimated and then subtracted from the ABC, as an element of the management uncertainty buffer, to calculate ACL.

Table 8 shows the number of active weirs and the average catch per weir reported for the NB weir fishery from 1978-2014. XXX

Table 7 Total Atlantic Herring Catch (mt), 1970 – 2014

Year	Mobile	US Fixed	NB Weir (Incl. Shutoff)
1970	302,107	4,316	15,070
1971	327,980	5,712	12,136
1972	225,726	22,800	31,893
1973	247,025	7,475	19,053
1974	203,462	7,040	19,020
1975	190,689	11,954	30,816
1976	79,732	35,606	29,207
1977	56,665	26,947	19,973
1978	52,423	20,309	38,842
1979	33,756	47,292	37,828
1980	57,120	42,325	13,526
1981	26,883	58,739	19,080
1982	29,334	15,113	25,963
1983	29,369	3,861	11,383
1984	46,189	471	8,698
1985	27,316	6,036	27,864
1986	38,100	2,120	27,885
1987	47,971	1,986	27,320
1988	51,019	2,598	33,421
1989	54,082	1,761	44,112
1990	54,737	670	38,778
1991	78,032	2,133	24,574
1992	88,910	3,839	31,968
1993	74,593	2,288	31,572
1994	63,161	539	22,242
1995	106,179	6	18,248
1996	116,788	631	15,913
1997	123,824	275	20,551
1998	103,734	4,889	20,092
1999	110,200	654	18,644
2000	109,087	54	16,830
2001	120,548	27	20,210
2002	93,176	46	11,874
2003	102,320	152	9,008
2004	94,628	96	20,685
2005	93,670	68	13,055
2006	102,994	1,007	12,863
2007	81,116	403	30,944
2008	84,650	31	6,448
2009	103,458	98	4,031
2010	67,191	1,263	10,958
2011	82,022	421	3,711
2012	87,164	9	504
2013	95,182	9	6,431
2014	92,651	518	2,149

Source: NEFSC Assessment Update Report (2015).

Table 8 Number of Active Weirs and Catch per Weir in the NB Weir Fishery, 1978-2014

Year	NB Weir Catch (mt)	No. Active Weirs	Catch Per Weir (mt)
1978	33,570	208	162
1979	32,477	210	155
1980	11,100	120	92
1981	15,575	147	102
1982	22,183	159	140
1983	10,594	143	88
1984	8,374	116	72
1985	26,724	156	171
1986	27,515	105	262
1987	26,622	123	216
1988	32,554	191	200
1989	43,475	171	255
1990	38,224	154	258
1991	23,713	143	166
1992	31,899	151	212
1993	31,431	145	216
1994	20,622	129	160
1995	18,198	106	172
1996	15,781	101	156
1997	20,416	102	200
1998	19,113	108	181
1999	18,234	100	191
2000	16,472	77	213
2001	20,064	101	199
2002	11,807	83	142
2003	9,003	78	115
2004	20,620	84	245
2005	12,639	76	166
2006	11,641	89	131
2007	30,145	97	311
2008	6,041	76	79
2009	3,603	38	95
2010	10,671	77	139
2011	2,643	37	71
2012	494	4	124
2013	5,902	49	120
2014	1,571	26	60
Long-Term Average	18,962 mt	110 weirs	163 mt
3-Year Average	2,656 mt	26	101 mt
5-Year Average	4,256 mt	39	103 mt
10-Year Average	8,535 mt	57	130 mt

Source: DFO.

Table 9 summarizes recent Canadian catch of herring by Month, Gear Type, and Fishing Mode. The yellow-highlighted rows in Table 9 include catch from the NB weir fishery, which is assumed to come from the same stock as the U.S. fishery for Atlantic herring. The information provided in Table 9 shows that the NB weir fishery is primarily a fall fishery, XXX

Table 9 Canadian Herring Landings by Quota Year/Calendar Year, Month, Gear Type, and Fishing Mode, October 2014-Present (YTD)

Sum of CATI				MONTH												Grand Total
QYEAR	YEAR	Gear type	Fishing Grounds	10	11	12	1	2	3	4	5	6	7	8	Grand Total	
2014	2014	WEIR	New Brunswick	358											358	
		OTTER TRAWL, STERN	Offshore Banks	2	1	1									4	
			Unspecified	0	0	0									0	
		GILL NET (SET OR FIXED)	Liverpool	66											66	
		GILL NET, DRIFT	Liverpool	14											14	
		HAND LINE	Unspecified	0											0	
		BEACH DRAG/BAR SEINE	Unspecified			8									8	
2014 Total				441	1	10								451		
2014 Total				441	1	10								451		
1415	2014	PURSE SEINE	Grand Manan	243	363										606	
			Lurcher	165											165	
			N.B. Coastal	469											469	
			Trinity	51											51	
			2014 Total				928	363								1,291
1415	2015	PURSE SEINE	G.M. Banks							731		702	923		2,356	
			Gannet/Dry Ledge						7,111		2,612	411			10,134	
			German Bank						903		412	3,619			4,934	
			Grand Manan										47		47	
			Long Island						155		32				187	
			Lurcher						193		569				762	
			Scots Bay						1,211		2,391	1,350			4,952	
			Unspecified										16		16	
			GILL NET, DRIFT	German Bank											6	6
				Scots Bay										172		172
2015 Total										10,304		6,906	6,356	23,566		
1415 Total				928	363					10,304		6,906	6,356	24,857		
2015	2015	PURSE SEINE	Offshore Banks							699	1,064		84		1,847	
			WEIR	New Brunswick							32		28		60	
			OTTER TRAWL, STERN	Halifax							0					0
				Offshore Banks				1	1	5	3	2	5	2		19
				Unspecified								0	0	0		0
			TRAP NET	Unspecified								0	1			1
2015 Total							1	1	5	3	733	1,070	31	84	1,927	
2015 Total							1	1	5	3	733	1,070	31	84	1,927	
Grand Total				1,369	364	10	1	1	5	3	11,037	1,070	6,937	6,440	27,235	

For the 2016-2018 Atlantic herring specifications, the Herring Committee/Council considered possible deductions from the ABC to account for management uncertainty based on updated (most recent) 3-year, 5-year, and 10-year average catch totals from the NB weir fishery (see Table 10 below). This is consistent with the range of deductions that the Council considered during the 2013-2015 fishery specifications process. For 2016-2018, the Council recommends that the 2013-2015 management uncertainty deduction of 6,200 mt be maintained to account for the potential catch of Atlantic herring in the Canadian (New Brunswick) weir fishery. This management uncertainty deduction is greater than the most recent three-year and five-year average catch in the NB weir fishery and would provide a more conservative buffer than utilizing the same approach that was utilized for the 2013-2015 fishery specifications to specify management uncertainty (most recent three-year average NB weir catch).

Add rationale after September 2015 Council meeting

Table 10 Possible Deductions for Management Uncertainty (NB Weir Fishery) in 2016-2018 Atlantic Herring Specifications

Option	Management Uncertainty Deduction (mt, rounded)	Stockwide Atlantic Herring ACL/OY (ABC = 111,000 mt)
2013-2015 Specifications	6,200	104,800
3-year average NB weir catch (2012-2014)	3,000	108,000
5-year average NB weir catch (2010-2014)	4,800	106,200
10-year average NB weir catch (2005-2014)	9,100	101,900

The **Council's recommendation** for 2016-2018 is shaded in grey.

Atlantic Herring Catch in State Waters

The vast majority of the Atlantic herring resource is harvested in Federal waters. Catch by Federal permit holders that occurs in State waters is reported and counted against the sub-ACLs. Catch by state-only permit holders is monitored by the ASMFC and is not large enough to substantially affect management of the Federal fishery and the ability to remain under the sub-ACLs.

2014 state waters only Atlantic herring catch – 41,000 mt

The non-federally permitted commercial landings of Atlantic herring are primarily from Maine fixed gear fishermen and a small number of seiners. Table 11 provides updated catch estimates from the fixed gear fishery through 2013. The Council specifies a set-aside for West of Cutler fixed gear fishermen (FGSA), currently 295 mt. The un-used portion of the FGSA is returned to the 1A fishery after November 1. The ASMFC's requirement that fixed gear fishermen must report through IVR (and therefore have catch counted against the sub-ACL) has reduced any management uncertainty associated with State waters landings to an insignificant amount.

Table 11 Atlantic Herring Landings from Fixed Gear Fishery Before and After November 1 Rollover Date

Year	Sub-ACL Closure Date	Area 1A Sub-ACL (mt)	Cumulative Catch (mt) by Dec 31	Fixed Gear Landings (mt) Jan-Oct	Fixed Gear Landings (mt) Nov-Dec
2004	11/19/2004	60,000	60,071	49	0
2005	12/2/2005	60,000	61,570	53	0
2006	10/21/2006	50,000	59,980	528	0
2007	10/25/2007	50,000	49,992	392	0
2008	11/14/2008	43,650	42,257	24	0
2009	11/26/2009	43,650	44,088	81	0
2010	11/17/2010	26,546	27,741	823	0
2011	10/27/2011	29,251	29,359	23	0
2012	11/5/2012	27,668	25,057	0	0
2013	10/15/2013	29,775	29,820	0	0

Source: ASMFC.

Atlantic Herring Discards

The 2012 benchmark assessment for Atlantic herring (SAW 54) incorporated Atlantic herring discards from the VTR data provided to them by NMFS. Discard estimates have only been available since 1996 and are generally less than 1% of the landings and do not represent a significant source of mortality. However, this is not considered problematic to the stock assessment according to SAW 54.

Atlantic herring discards are estimated by NMFS using vessel and observer data and are counted against the management area sub-ACLs. To date, uncertainty related to estimating Atlantic herring discards has not been a significant source of management uncertainty. There does not appear to be a need to change this conclusion when considering management uncertainty for the 2016-2018 Atlantic herring fishery specifications. This is because increased sampling has improved bycatch accounting and reduced uncertainty associated with estimating Atlantic herring discards in recent years. In 2010, the Northeast Fisheries Observer Program (NEFOP) revised the training curriculum for observers deployed on herring vessels to focus on effectively sampling in high-volume fisheries. NEFOP also developed a discard log to collect detailed information on discards in the herring fishery, such as why catch was discarded, the estimated amount of discarded catch, and the estimated composition of discarded catch. Moreover, management measures implemented through Amendment 5 and other future actions will continue to improve catch monitoring and the accuracy of herring discard estimates in future years.

Table 12 provides Atlantic herring discard estimates for 2010-2013 based on three sources of data: VMS, VTR, and observer data expansion. VMS discards were summed together by year using the GARFO Atlantic herring VMS catch report database. The VTR discards were summed

together by year using the GARFO VTR databases. Lastly, the observer extrapolated data were acquired from the 2010-2013 year-end summary reports. XXX

Table 12 Atlantic Herring Discards (mt) by Reporting Method, 2010-2013

Year	VMS*	VTR**	Observer – Fleet Expansion***
2010	0	263	137
2011	179	179	210
2012	144	154	87
2013	113	169	18

Source: VMS, VTR databases and herring year end reports as of 8/28/2015.

*GARFO herring VMS catch report table *fso_admin.vms_herring_catch_report_stg*.

**GARFO VTR databases under the NOAA schema.

***Year-End discard calculation using observer data extrapolated out to the herring fleet.

Add slippage update

2.2.2 Specification of DAH, DAP, BT, and USAP

The Atlantic Herring FMP specifies that domestic annual harvest (DAH) will be set less than or equal to OY and will be composed of domestic annual processing (DAP) and the amount of Atlantic herring that can be taken in U.S. waters and transferred to Canadian herring carriers for transshipment to Canada (BT). Domestic annual harvest (DAH) is established based on the expected catch from U.S. fishing vessels during the upcoming fishing year and equals OY for the U.S. fishery.

$$\text{Stockwide ACL} = \text{OY} = \text{DAH}$$

The Herring FMP, as modified in Amendment 4, also specifies that domestic annual harvest (DAH) will be composed of domestic annual processing (DAP) and the amount of Atlantic herring that can be taken in U.S. waters and transferred to Canadian herring carriers for transshipment to Canada (BT).

$$\text{DAH} = \text{DAP} + \text{BT}$$

DAH Specification

When specifying DAH for the Atlantic herring fishery, important considerations relate to the actual and potential capacity of the U.S. harvesting fleet. Recent fishery performance (landings) is also an important factor in this fishery. The Herring FMP became effective during the 2001 fishing year, and since 2001, total landings in the U.S. fishery have decreased. Table 33 on p. 73 of this document summarizes total Atlantic herring catch as a percentage of the total available catch in each year from 2003-2014. Atlantic herring catch has been somewhat consistent over the time period (and in previous years), averaging about 91,925 mt from 2003-2014, with the highest catch of the time series observed in 2009 (103,943 mt) and lowest in 2010 (72,852 mt). However, the quota allocated to the fishery (stockwide ACL/OY) has decreased 50% over the

twelve-year period. Consequently, and without increasing fishing effort, the Atlantic herring fishery has become more fully utilized in recent years, and the fishery utilized 100% of the total Atlantic herring ACL for the first time in 2012. The 2013-2015 Atlantic herring fishery specifications increased the stockwide Atlantic herring ACL by more than 15,000 mt from the 2010-2012 specifications; an additional 5,000 mt was caught under the higher quota in 2013 and 2014, and overall, the fishery utilized about 90% of the stockwide Atlantic herring ACL.

In prior years when considering the DAH specification, the Council has evaluated the harvesting capacity of the directed Atlantic herring fleet and determined that the herring fleet is capable of fully utilizing the available yield from the fishery. Therefore, the **DAH specification for the 2016-2018 fishing years is proposed to be equal to the stockwide Atlantic herring ACL**, i.e., the U.S. OY specified by the Council for each of the 2016-2018 fishing years.

Domestic Annual Processing (DAP) is defined in the Herring FMP as the amount of U.S. harvest that domestic processors will use, combined with the amount of the resource that will be sold as fresh fish (including bait). DAP was set equal DAH minus 4,000 mt for BT during the 2013-2015 fishing years and in prior specifications.

DAP Specification

Processing, with respect to the Atlantic herring fishery, is defined in the regulations as *the preparation of Atlantic herring to render it suitable for human consumption, bait, commercial uses, industrial uses, or long-term storage, including but not limited to cooking, canning, roe extraction, smoking, salting, drying, freezing, or rendering into meat or oil*. The definition of processing does not include trucking and/or transporting fish.

While it is difficult to predict whether or not the U.S. processing sector will utilize all of the available DAP in 2016-2018, it is certainly possible given the capacity of the domestic processing sector. Therefore, the **DAP specification for the 2016-2018 fishing years is proposed to be equal to the DAH specification minus the BT specification**.

BT Specification

The Border Transfer specification represents U.S.-caught herring transshipped to Canada via Canadian carrier vessels and used for human consumption. This specification is not a set-aside; rather, it represents a maximum amount of Atlantic herring caught from Area 1A that can be transshipped to Canadian vessels for human consumption. NMFS GARFO tracks BT utilization through a separate dealer code. Specification of BT has remained at 4,000 mt since the implementation of the Atlantic Herring FMP, and there was no change for the 2013-2015 fishing years. There does not appear to be a need to change this specification for 2016-2018. Therefore, the **BT specification is proposed to remain 4,000 mt for the 2016-2018 fishing years**.

Table 13 indicates a decrease in BT from 1994-2014, with 2011 utilizing 946 mt (24% of 4,000 border transfer mt). **UPDATE**

Table 13 Utilization of Border Transfer (mt)

YEAR	MT Utilized in BT
1994	2,456
1995	2,117
1996	3,690
1997	1,280
1998	1,093
1999	839
2000	1,546
2001	445
2002	688
2003	1,311
2004	184
2005	169
2006	653
2007	53
2008	0
2009	XXX
2010	XXX
2011	946
2012	Update
2013	Update
2014	Update

Source: NMFS.

USAP Specification

The Atlantic Herring FMP states that “part of DAP may be allocated for at-sea processing by domestic vessels that exceed the vessel size limits (see Section 3.6.6 of the Herring FMP). This allocation will be called the ‘U.S. at-sea processing’ (USAP) allocation. The term ‘at-sea processing’ refers to processing activities that occur in the Exclusive Economic Zone outside State waters. When determining this specification, the Council will consider the availability of other processing capacity, development of the fishery, status of the resource, and opportunities for vessels to enter the herring fishery.” The USAP specification serves as a cap for USAP activities and is not a specific allocation to this processing sector.

During the 2007-2009 fishing years, the Council maintained a USAP specification of 20,000 mt (Areas 2/3 only) based on information received about a new at-sea processing vessel that intended to utilize a substantial amount of the USAP specification. At that time, landings from Areas 2 and 3 – where USAP is authorized – were considerably lower than allocated sub-ACLs for each of the past several years. Moreover, the specification of 20,000 mt for USAP did not restrict either the operation or the expansion of the shoreside processing facilities during the 2007-2009 fishing years. However, this operation never materialized, and none of the USAP

specification was used during the 2007-2009 fishing years. Consequently, the Council set USAP at zero for the 2010-2012 fishing years and the 2013-2015 fishing years. The Council has not received any information that would suggest changing this specification for the 2016-2018 fishing years. Therefore, **the specification of USAP for the 2016-2018 fishing years is proposed to remain at 0 mt.**

2.2.3 Specification of Management Area Sub-ACLs for 2016-2018

Because the Atlantic herring ABC specification recommended by the SSC for 2016-2018 (111,000 mt) is not substantially different than the 2013-2015 ABC specification (114,000 mt), the Council, based on a recommendation from the Herring Committee, has determined that there is no need to consider modifying the distribution of the total ACL among the Atlantic herring management areas for 2016-2018. Additionally, information from the Atlantic herring operational assessment report (April 2015) does not suggest that there is a biological need to consider modifying the distribution of the stockwide ACL. To this end, a “status quo” approach for 2016-2018 Atlantic herring sub-ACLs is recommended by the Council (see Table 14 below), based on an ABC specification of 111,000 mt. The status quo approach applies the same (2013-2015) proportional distribution of the stockwide Atlantic herring ACL among the management areas. This approach is applied to determine the sub-ACLs under both Alternative 2 (status quo, Section 0) and Alternative 3 (*Preferred Alternative*, Section 2.1.4). The Council has also determined that there is no need to consider changing the seasonal (monthly) divisions of the Area 1A and Area 1B sub-ACLs; these sub-ACL seasons are therefore carried over to Alternatives 2 and 3.

Table 14 Status Quo Approach for 2016-2018 Atlantic Herring Sub-ACLs

	2013-2015	2016-2018
OFL (mt)	169,000/136,000/114,000	138,000/117,000/111,000
ABC (mt)	114,000	111,000*
ACL (mt)	107,800	TBD
Sub-ACL Area 1A	31,200 (28.9%)	TBD (28.9%)
Sub-ACL Area 1B	4,600 (4.3%)	TBD (4.3%)
Sub-ACL Area 2	30,000 (27.8%)	TBD (27.8%)
Sub-ACL Area 3	42,000 (39%)	TBD (39%)
RSA	3%	TBD
FGSA	295 mt	TBD

*Based on SSC recommendation of 111,000 mt for ABC.

Proposed Seasonal (Monthly) Sub-ACL Divisions (2016-2018)

- Area 1A: 0% January-May; 100% June-December;
- Area 1B: 0% January-April; 100% May-December

According to the catch information presented in Table 32 (see p. 72), it is anticipated that there will be a deduction from the 2016 sub-ACLs for Area 1A and Area 1B to account for overages that occurred in these areas during the 2014 fishing year. There should also be a carryover of some portion (up to 10%) of the unused 2014 sub-ACL from Areas 2 and 3 to the 2016 sub-ACLs for these areas (but the stockwide Atlantic herring ACL will not increase, consistent with Framework 2 to the Atlantic Herring FMP).

2.2.4 Specification of Research Set-Asides (RSAs)

There is a research set-aside established in Amendment 1 (0-3% for any management area) and a corresponding requirement that when the catch in a management area is projected to reach 92% of its specified sub-ACL (after the RSA deduction), the Regional Administrator closes the area to all directed herring fishing. The Council deducted a 3% RSA for all management areas for the 2013-2015 Atlantic herring fishery specifications and identified river herring bycatch avoidance and portside sampling as top priorities for cooperative research to be funded by herring RSA in 2014 and 2015.

The RSA process is a competitive grants process administered by the Northeast Fisheries Science Center. Proposals are requested for research, and incoming proposals are reviewed and ranked by a technical body. With competitive grants awarded through this process, different entities will apply. For catch monitoring, it is important to ensure that only qualified entities apply, and it would be difficult to ensure a consistent monitoring program with multiple entities potentially competing for the available funds in any given year.

At its July 22, 2015 meeting, the Herring Committee recommended that the Council maintain the specification of 3% RSA from each management area for the 2016-2018 fishing years.

Top Priorities for Cooperative Research 2016-2018

At its January 27-29, 2015 meeting, the Council approved a motion (14/0/1) to recommend the following four research priorities under any RSAs that may be allocated in the 2016-2018 Atlantic herring fishery specifications (without ranking, i.e., equally-important):

1. Portside Sampling
2. River Herring Bycatch Avoidance
3. Electronic Monitoring
4. Research to Support/Enhance the Atlantic Herring Stock Assessment

In addition, the Council unanimously passed a motion to request input from the NEFSC regarding the fourth cooperative research priority. The NEFSC identified four research projects that would support or enhance the Atlantic herring assessment, while at the same time being appropriate for Atlantic herring RSA. These topics include: stock structure/spatial management; availability and detectability; fishery acoustic indices; and volume-to-weight conversion. The NEFSC provided some additional information to the Council regarding the applicability of these research topics to the Atlantic herring RSA program.

2.2.5 Specification of Fixed Gear Set-Aside (FGSA)

Amendment 1 allows the Council to set-aside up to 500 metric tons of Atlantic Herring until November 1 for fixed gear fishermen fishing West of Cutler. The Commission's Amendment 2 to the Interstate FMP for Atlantic Herring requires fishermen East of Cutler to report weekly through the federal IVR system. ME DMR require the ME state commercial fixed gear fishermen to be compliant with the federal IVR weekly reporting requirements and regulations as well as reporting monthly to ME DMR. The FGSA was set to 295 mt for the 2013-2015 specifications in Area 1A.

Table 11 on p. 21 of this document provides updated Atlantic herring catch estimates from the fixed gear fishery through 2013. According to Table 11, none of the FGSA was utilized in recent years; however, the unutilized portion of the set-aside is returned to the Area 1A fishery after November 1. At its July 22, 2015 meeting, the Herring Committee recommended that the Council maintain the specification of 296 mt for the FGSA for the 2016-2018 fishing years.

2.3 2016-2018 RIVER HERRING/SHAD (RH/S) CATCH CAPS

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps, as well as information/rationale to support the *Preferred Alternative*, are provided in the following subsections. Appendix I includes **XXX** and can be referenced for more detailed information.

2.3.1 RH/S Alternative 1: No Action (Framework 3 Catch Caps)

RH/S Alternative 1 represents the no action alternative. This alternative would maintain the 2014/2015 RH/S catch caps implemented in Framework 3 for the 2016-2018 fishing years. Under this alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Fw 3 (Table 15). The RH/S catch caps under this alternative would continue to apply to midwater trawl vessels in the Gulf of Maine and Cape Cod Catch Cap Areas, and to both midwater trawl and small mesh bottom trawl vessels in the southern New England/Mid-Atlantic Catch Cap Area (see RH/S Catch Cap Areas shaded on Figure 1, p. 3) on all trips landing more than 6,600 pounds of Atlantic herring. No RH/S catch cap would be adopted for the GB Catch Cap Area.

Table 15 RH/S Alternative 1 (No Action)

RH/S Catch Cap Area	2016-2018 RH/S Catch Cap (mt)
GOM	Midwater Trawl – 85.5
CC	Midwater Trawl – 13.3
SNE/MA	Midwater Trawl – 123.7 Bottom Trawl – 88.9
GB	0

2.3.2 RH/S Alternative 2 (Non-Preferred)

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT’s updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3 (see Section 3.2.3 and Appendix I). The same five-year time series that was utilized in Fw 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (Table 16). The RH/S catch caps under this alternative would continue to apply to midwater trawl vessels in the Gulf of Maine and Cape Cod Catch Cap Areas, and to both midwater trawl and small mesh bottom trawl vessels in the southern New England/Mid-Atlantic Catch Cap Area (see RH/S Catch Cap Areas shaded on Figure 1, p. 3) on all trips landing more than 6,600 pounds of Atlantic herring. No RH/S catch cap would be adopted for the GB Catch Cap Area.

Option 1: Median. Option 1 would base the 2016-2018 RH/S catch caps on the median values of the 2008-2012 revised RH/S catch estimates.

Option 2: Weighted Mean. Option 2 would base the 2016-2018 RH/S catch caps on the weighted mean values of the 2008-2012 revised RH/S catch estimates. The weighted mean represents the arithmetic average of the total RH/S catch per year (by area and gear type for each of the five years in the time series), weighted by the number of sampled trips in that stratum (see Appendix I for more information).

Table 16 RH/S Alternative 2

RH/S Catch Cap Area	2016-2018 RH/S Catch Cap (mt) Option 1 (Median)	2016-2018 RH/S Catch Cap (mt) Option 2 (Weighted Mean)
GOM	Midwater Trawl – 98.1	Midwater Trawl – 98.3
CC	Midwater Trawl – 8.9	Midwater Trawl – 27.6
SNE/MA	Midwater Trawl – 83.9 Bottom Trawl – 19.6	Midwater Trawl – 115.4 Bottom Trawl – 28.2
GB	0	0

2.3.3 RH/S Alternative 3 (*Herring Committee Preferred*): Revised Data with Seven-Year Time Series (Weighted Mean)

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT’s revised/updated data (see Section 3.2.3 and Appendix I). This alternative would incorporate RH/S catch estimates from the most recent two years, extending the time series to seven years, with options to select either the median or weighted mean values as the 2016-2018 RH/S catch caps (Table 17). The RH/S catch caps under this alternative would continue to apply to midwater trawl vessels in the Gulf of Maine and Cape Cod Catch Cap Areas, and to both midwater trawl and small mesh bottom trawl vessels in the southern New England/Mid-Atlantic Catch Cap Area (see RH/S Catch Cap Areas shaded on Figure 1, p. 3) on all trips landing more than 6,600 pounds of Atlantic herring. No RH/S catch cap would be adopted for the GB Catch Cap Area. Alternative 3 (using Option 2, the weighted mean) represents the *Herring Committee’s Preferred Alternative* for specifying 2016-2018 RH/S catch caps at this time.

Option 1: Median. Option 1 would base the 2016-2018 RH/S catch caps on the median values of the 2008-2014 revised RH/S catch estimates.

Option 2: Weighted Mean. Option 2 would base the 2016-2018 RH/S catch caps on the weighted mean values of the 2008-2014 revised RH/S catch estimates. The weighted mean represents the arithmetic average of the total RH/S catch per year (by area and gear type for each of the seven years in the time series), weighted by the number of sampled trips in that stratum (see Appendix I for more information). This option represents the *Herring Committee’s Preferred Alternative* for specifying the 2016-2018 RH/S catch caps.

Table 17 RH/S Alternative 3 (*Option 2 Preferred*)

RH/S Catch Cap Area	2016-2018 RH/S Catch Cap (mt) Option 1 (Median)	2016-2018 RH/S Catch Cap (mt) Option 2 (Weighted Mean)
GOM	Midwater Trawl – 11.3	Midwater Trawl – 76.7
CC	Midwater Trawl – 29.5	Midwater Trawl – 32.4
SNE/MA	Midwater Trawl – 83.9 Bottom Trawl – 24.0	Midwater Trawl – 129.6 Bottom Trawl – 122.3
GB	0	0

Rationale for Preferred Alternative

TBD after September 2015 Council meeting

2.3.4 Summary of RH/S Catch Cap Alternatives Under Consideration

Table 18 below summarizes the alternatives under consideration for specifying the 2016-2018 RH/S catch caps for the directed Atlantic herring fishery (trips landing more than 6,600 pounds of Atlantic herring). The Herring Committee’s *Preferred Alternatives* are shaded in grey.

Table 18 Alternatives/Options for Specifying 2016-2018 RH/S Catch Caps

RH/S Catch Cap Area	Alternative	Options			
		Bottom Trawl		Midwater Trawl	
		Median	Wgt Mean	Median	Wgt Mean
GOM	1 - Fw3 (08-12)			85.5	
	2 - Fw3 Revised (08-12)			98.1	98.3
	3 - Seven Years (08-14)			11.3	76.7
CC	1 - Fw3 (08-12)			13.3	
	2 - Fw3 Revised (08-12)			8.9	27.6
	3 - Seven Years (08-14)			29.5	32.4
SNE/MA	1 - Fw3 (08-12)	88.9		123.7	
	2 - Fw3 Revised (08-12)	19.6	28.2	83.9	115.4
	3 - Seven Years (08-14)	24.0	122.3	83.9	129.6

The Herring Committee’s Preferred Alternative is shaded in grey.

No RH/S catch caps are proposed for the Georges Bank Catch Cap Area for 2016-2018.

2.4 ALTERNATIVES CONSIDERED BUT REJECTED

TBD

3.0 AFFECTED ENVIRONMENT

The Affected Environment is described in this document based on valued ecosystem components (VECs). VECs represent the resources, areas, and human communities that may be affected by the management measures under consideration in this management action. VECs are the focus since they are the “place” where the impacts of management actions are exhibited. The VECs for consideration in the 2016-2018 Atlantic herring fishery specifications package include:

Atlantic Herring; Non-Target Species (with particular focus on river herring/shad); **Physical Environment and Essential Fish Habitat (EFH); Protected Resources;** and **Fishery-Related Businesses and Communities.**

The 2013-2015 Atlantic herring fishery specifications package (which also served as Framework 2), Framework 3 (RH/S catch caps), and Framework 4 to the Atlantic Herring FMP (measures to address slippage/dealer reporting) provide detailed information about the VECs addressed in this document. To the extent possible, information from these recent documents is not repeated in the following subsections but has been updated to support the Council’s decision-making regarding the 2016-2018 Atlantic herring fishery specifications.

3.1 ATLANTIC HERRING

The NEFMC manages the Atlantic herring fishery under the Atlantic Herring FMP. This document serves as a framework adjustment to the Herring FMP. A complete description of the Atlantic herring resource can be found in Section 7.1 of the FEIS for Amendment 1 to the Herring FMP. Updated information to supplement that presented in Amendment 1 can be found in the Amendment 5 EIS and Framework 2 to the Herring FMP (which includes the 2013-2015 Atlantic herring fishery specifications). The following subsections update information through 2013/2014 where possible and summarize the stock status and recent biological information for Atlantic herring. Based on the best available scientific information, the Atlantic herring resource is not overfished at this time and overfishing is not occurring (the stock is considered rebuilt).

The Atlantic herring (*Clupea harengus*), is widely distributed in continental shelf waters of the Northeast Atlantic, from Labrador to Cape Hatteras. Herring can be found in every major estuary from the northern Gulf of Maine to the Chesapeake Bay. They are most abundant north of Cape Cod and become increasingly scarce south of New Jersey (Kelly and Moring 1986) with the largest and oldest fish found in the southern most portion of the range (Munro 2002). Spawning occurs in the summer and fall, starting earlier along the eastern Maine coast and southwest Nova Scotia (August – September) than in the southwestern GOM (early to mid-October in the Jeffreys Ledge area) and GB (as late as November – December; Reid et al. 1999). In general, GOM herring migrate from summer feeding grounds along the Maine coast and on GB to SNE/MA areas during winter, with larger individuals tending to migrate farther distances.

Presently, herring from the GOM (inshore) and GB (offshore) stock components are combined for assessment purposes into a single coastal stock complex.

3.1.1 Atlantic Herring Stock Status

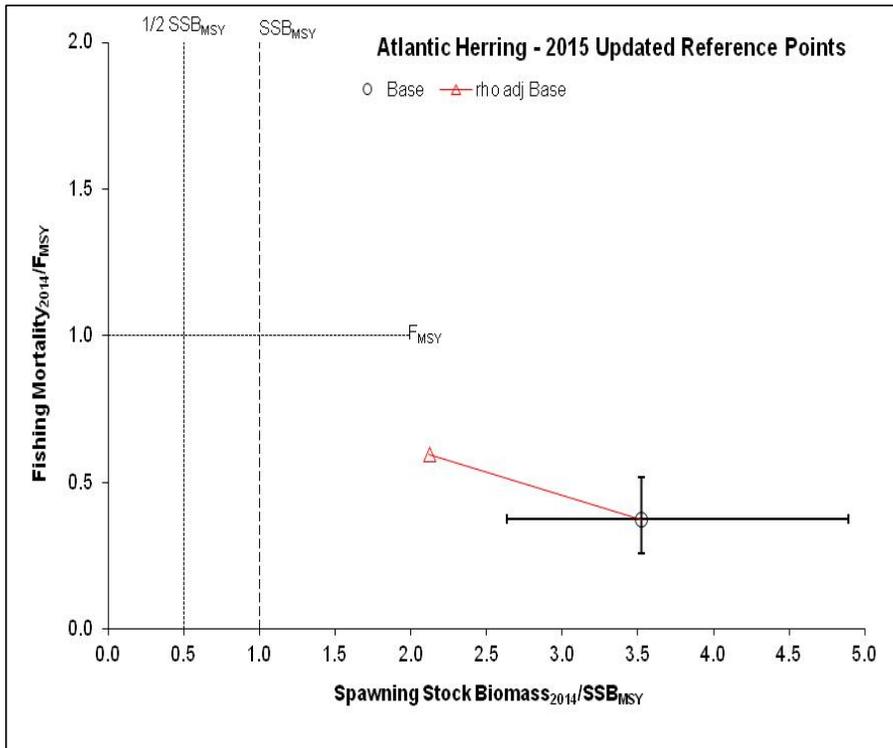
The Atlantic herring operational (update) assessment meeting was held in Woods Hole, MA on April 8-9, 2015. This assessment serves as an update to the SAW/SARC 54 benchmark assessment conducted in 2012.

Overall, the updated assessment indicates that the Atlantic herring resource continues to remain well above its biomass target (rebuilt), and fishing mortality remains well below the F_{MSY} threshold (not overfishing). A retrospective pattern re-emerged when updating the assessment model, which suggests that Atlantic herring spawning stock biomass (SSB) is likely to be overestimated and fishing mortality (F) is likely to be underestimated in the terminal year of the assessment. Resolution of a technical error in the contribution of recruitment to the objective function (i.e., negative log-likelihood) of the assessment model also affected the severity of the retrospective pattern. As a result, the assessment review panel applied a retrospective adjustment to the SSB and F values for the terminal year (2014) using Mohn's Rho. The retrospective adjustments resulted in approximately a 40% decrease in the terminal year (2014) SSB estimate and a 60% increase in the 2014 F estimate. Even with the retrospective adjustments, the Atlantic herring stock complex remains above the biomass target and below the fishing mortality threshold (Table 19, Figure 2).

Table 19 Summary of Atlantic Herring Reference Points and Terminal Year SSB/F Estimates from Benchmark Assessment (2012) and Update Assessment (2015)

	2012 SAW 54 Benchmark	2015 Update (Non-Adjusted)	2015 Update (Retro-Adjusted)
Terminal Year SSB	518,000 mt (2011)	1,041,500 mt (2014)	622,991 mt (2014)
Terminal Year F	0.14 (2011)	0.10 (2014)	0.16 (2014)
SSB_{MSY}	157,000 mt	311,145 mt	
F_{MSY}	0.27	0.24	
MSY	53,000 mt	77,247 mt	

Figure 2 Atlantic Herring Operational Assessment: 2014 Fishing Mortality and SSB Relative to F_{MSY} and SSB_{MSY} Reference Points, Including Retrospective Adjustment (Red Line)



Note: Error bars represent 10th and 90th percentiles of 2014 F/SSB estimates.

The results of the 2015 operational assessment form the basis of the SSC’s and Council’s recommendations for the 2016-2018 specifications of OFL and ABC. The operational assessment report and the May 20, 2015 SSC Report should be referenced for more detailed information.

3.1.2 Considerations Related to Scientific Uncertainty

With respect to the 2015 Atlantic herring operational assessment, the re-emerging retrospective pattern, assumptions about natural mortality (M), and the mis-match between implied consumption and estimated consumption appear to be the primary sources of uncertainty (see discussion in following subsections).

The size/strength of the 2011 year class and other sources of uncertainty were also identified in the assessment report. However, signals related to the 2011 year class (possibly the second-largest on record) are similar to those for the 2008 year class that were noted in the 2012 Atlantic

herring benchmark stock assessment. The update assessment indicates that the 2008 year class has persisted through the fishery as the strongest on record.

3.1.2.1 Retrospective Pattern

Since the benchmark assessment, an issue with the contribution of recruitment to the negative log likelihood in the assessment framework, ASAP, was discovered. This issue was resolved for the operational assessment. Differences in results and diagnostics between the benchmark and the update are partially attributable to the likelihood issue. Resolving the likelihood issue had the effect of changing the scale of estimates (e.g., increasing abundance estimates), particularly in recent years. Regardless of the likelihood issue, diagnostic problems (e.g., retrospective patterns) were present in the update assessment. Resolving the likelihood issue only amplified these diagnostic problems (e.g., worsening retrospective patterns). To account for retrospective bias, the assessment review panel made a retrospective adjustment to the terminal year (2014) estimates of SSB (40%) and F (60%). The retrospective-adjusted estimates of SSB, F, and numbers-at-age are utilized for the short-term (2016-2018) catch projections (see Section 4.1.1 of this document for catch projections). No retrospective adjustment was applied to the benchmark terminal year (2011) biomass and fishing mortality estimates that were utilized in the projections for the 2013-2015 Atlantic herring fishery specifications.

The re-emergence of the retrospective pattern suggests a fundamental diagnostic problem with the assessment model that remains a cause for concern. However, it appears that the stock would remain above the biomass target and below the fishing mortality thresholds even if the 80% confidence intervals (i.e., 90th and 10th percentiles) associated with the terminal year estimates of F and SSB (see Figure 2 on p. 33) are applied to the retrospective-adjusted estimates (i.e., stock status would not change, 2014 F would remain below the threshold, and 2014 SSB would remain above the target).

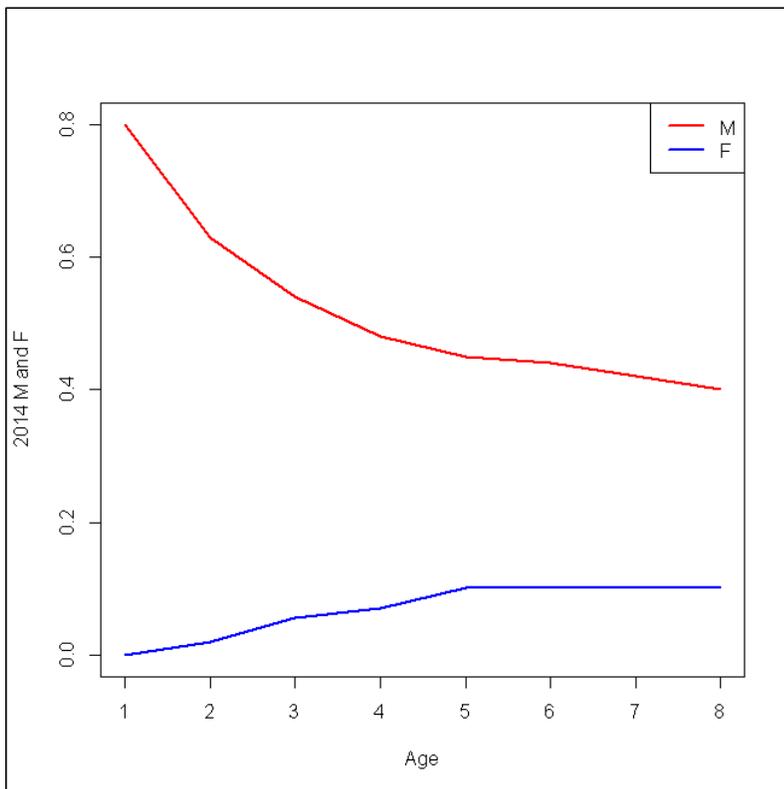
3.1.2.2 Natural Mortality (M) and Consumption

Additional uncertainty is associated with the treatment of natural mortality (M) in the assessment model and the divergence between NMFS' consumption estimates (based on stomach content data) and levels of consumption implied by the input M values in the assessment model. The mismatch between estimated and implied consumption became apparent when the assessment model was updated. This may not be of significant concern because of the possible inaccuracy of consumption estimates derived from the food habits data. These data can be extremely sensitive to presence/absence of herring in just a few stomach samples. While food habits data are used to estimate consumption by teleost predators (fish), estimates of consumption by marine mammals, seabirds, and some larger predators (ex. tuna) are derived from prior research and assumed to be constant in recent years; these data may not be complete. Moreover, consumption of Atlantic herring and other species may change due to factors other than M (e.g., herring abundance, spatial overlap).

The assessment model assumes a significant amount of natural mortality on Atlantic herring, particularly at younger ages, before the fish experience mortality from the fishery. Figure 3 shows how the assessment model treats natural mortality (red line) and fishing mortality (blue

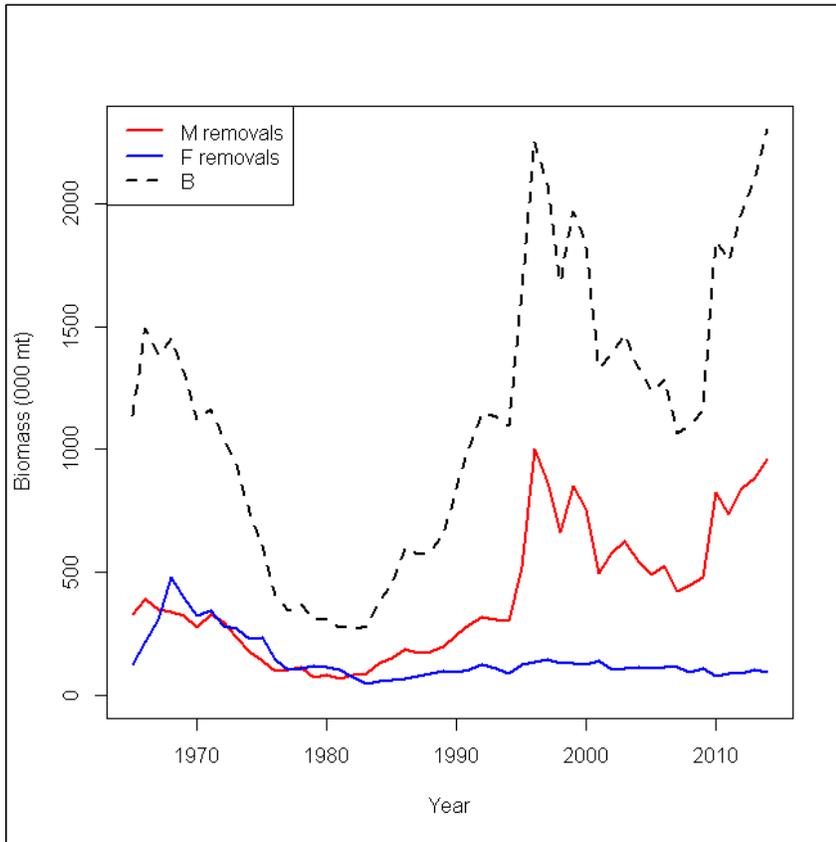
line) by age class in 2014. Thus, the model assumes that M is a much higher fraction of total mortality than fishing mortality. Figure 4 illustrates removals from fishing mortality and natural mortality estimated from the assessment model relative to total biomass over the entire time series.

Figure 3 Atlantic Herring Operational Assessment: 2014 Estimated Natural Mortality (M) and Fishing Mortality (F) by Age



Source: Atlantic Herring Operational Assessment Meeting, April 8-9, 2015.

Figure 4 Atlantic Herring Operational Assessment: Estimated Removals from Natural Mortality (M) and Fishing Mortality (F) Relative to Total Estimated Biomass (B)



Source: Atlantic Herring Operational Assessment Meeting, April 8-9, 2015.

3.2 NON-TARGET SPECIES

3.2.1 Overview

Non-target species refers to species other than Atlantic herring which are caught/landed by federally permitted vessels while fishing for herring. The MSA defines *bycatch* as fish that are harvested in a fishery, but are not retained (sold, transferred, or kept for personal use), including economic discards and regulatory discards. 16 U.S.C. § 1802(2). The MSA mandates the reduction of *bycatch*, as defined, to the extent practicable. 16 U.S.C. § 1851(a)(9). Incidental catch, on the other hand, is typically considered to be non-targeted species that are harvested while fishing for a target species and is retained and/or sold. In contrast to bycatch, there is no statutory mandate to reduce incidental catch. When non-target species are encountered in the Atlantic herring fishery, they are either discarded (bycatch) or they are retained and sold as part of the catch (incidental catch). The majority of catch by herring vessels on directed trips is Atlantic herring, with extremely low percentages of bycatch (discards). Atlantic mackerel is targeted in combination with Atlantic herring during some times of the year in the southern New England and Mid-Atlantic area and is therefore not considered a non-target species.

The primary non-target species in the directed Atlantic herring fishery are groundfish (particularly haddock) and the river herring/shad (RH/S) species. Dogfish, squid, butterfish, Atlantic mackerel are also common non-target species in the directed herring fishery (mackerel and some other non-target species catch is often landed and sold). Comprehensive information about these species can be found in Section 5.2 of the FEIS for Amendment 5 and Sections 3.2 (River Herring/Shad) and 3.3 (Other Non-Target Species) of Framework 3 to the Atlantic Herring FMP. Summary information is provided below and updated where possible.

Due to the high-volume nature of the Atlantic herring fishery, non-target species, including river herring (blueback herring and alewives), shad (hickory shad and American shad), and some groundfish species (particularly haddock), are often retained once the fish are brought on board (see Amendment 5 FEIS at 173). The catch of non-target species in the directed Atlantic herring fishery can be identified through sea sampling (observer) data collected by the Northeast Fisheries Observer Program (NEFOP). Portside sampling data collected by MA DMF and ME DMR can be utilized to estimate catch of any non-target species that are landed. Dealer and VTR data can be used to identify/cross-check incidental landings of some non-target species that may be separated from Atlantic herring.

Add updated DATA

3.2.2 River Herring and Shad (RH/S)

River herring and shad are non-target species of particular concern in the Atlantic herring fishery and a **XXX** for this management action.

For the purposes of this document, the term “river herring” refers to the species of alewife (*Alosa pseudoharengus*) and blueback herring (*Alosa aestivalis*), and the term “shad” refers to the species of American shad (*Alosa sapidissima*) and hickory shad (*Alosa mediocris*). Collectively,

these four species are referred to throughout this document as “RH/S.” The following section provides summary information about RH/S as non-target species in the Atlantic herring fishery; a comprehensive description of the RH/S resources can be found in Section 3.2 of Framework 3 to the Atlantic Herring FMP (NEFMC, 2014). RH/S catch by Atlantic herring vessels is summarized in Section 3.2.4.4 of the Framework 3 document.

River herring and shad are anadromous fish that spend the majority of their adult lives at sea, only returning to freshwater in the spring to spawn. Historically, RH/S spawned in virtually every river and tributary along the coast. The oceanic ranges of all four species extend beyond the northern and southern latitudinal range of the NEFSC spring and fall surveys, which occur from the Gulf of Maine to Cape Hatteras, NC (35° 30' to 44° 30' N). The geographic range of blueback herring in the northwest Atlantic extends from Cape Breton, Nova Scotia, to the St. Johns River in FL and the range of American shad extends from the Sand Hill River in Labrador to the St. John's River in FL (Page and Burr 1991). The geographic range of alewife extends from Red Bay, Labrador, to SC. Hickory shad have a narrower geographic range than these three species and is most abundant between Cape Cod, MA and the St. John's River in FL, but is also infrequently found in the Gulf of Maine (Munroe 2002).

Targeting RH/S occurs almost exclusively in State waters, and river herring and shad are managed under the Atlantic States Marine Fisheries Commission's (ASMFC) Shad and River Herring Fishery Management Plan (FMP), which was developed in 1985. A more detailed description of the ASMFC Interstate Management Program for RH/S can be found in Section 3.2.3 of the Framework Adjustment 3 document (NEFMC 2014).

RH/S Stock Status

A stock assessment for American shad was completed in 1997 and submitted for peer review in early 1998 based on new information and the Board recommended terms of reference. The 1998 assessment estimated fishing mortality rates for nine shad stocks and general trends in abundance for 13 shad stocks. A coastwide American shad stock assessment was completed and accepted in 2007 and found that American shad stocks are currently at all-time lows and do not appear to be recovering. Recent declines of American shad were reported for Maine, New Hampshire, Rhode Island, and Georgia stocks, and for the Hudson (NY), Susquehanna (PA), James (VA), and Edisto (SC) rivers. Low and stable stock abundance was indicated for Massachusetts, Connecticut, Delaware, the Chesapeake Bay, the Rappahannock River (VA), and some South Carolina and Florida stocks. Stocks in the Potomac and York Rivers (VA) have shown some signs of recovery in recent years. There are no coastwide reference points for American shad. There is currently no stock assessment available for hickory shad.

The 2007 assessment of American shad identified primary causes for stock decline as a combination of overfishing, pollution, and habitat loss due to dam construction. In recent years, coastwide harvests have been on the order of 500-900 mt, nearly two orders of magnitude lower than in the late 19th century. Given these findings, the peer review panel recommended that current restoration actions need to be reviewed and new ones need to be identified and applied. The peer review panel suggested considering multiple approaches including a reduction in fishing mortality, enhancement of dam passage, mitigation of dam-related fish mortality, stocking, and habitat restoration.

The ASMFC completed the river herring benchmark stock assessment and peer review in 2012, examining 52 stocks of alewife and blueback herring with available data in US waters. The stock assessment technical team examined indices from fishery-dependent (directed river herring landings and bycatch estimates in ocean fisheries) and fishery-independent (young-of-year indices, adult net and electrofishing indices, coastal waters trawl surveys, and run count indices) datasets. From this information, the status of 23 stocks was determined to be *depleted* relative to historic levels, and one stock was increasing. Statuses of the remaining 28 stocks could not be determined, citing times-series of available data being too short. “*Depleted*” was used, rather than “*overfished*” and “*overfishing*,” due to many factors (i.e., directed fishing, incidental fishing/bycatch, habitat loss, predation, and climate change) contributing to the decline of river herring populations. Furthermore, the stock assessment did not determine estimates of river herring abundance and fishing mortality due to lack of adequate data. For many of these reasons, the stock assessment team suggested reducing the full range of impacts on river herring populations.

RH/S Catch Management and Bycatch Minimization

In Federal waters, the New England Council manages and minimizes RH/S interactions through the Atlantic Herring FMP and its associated amendments and framework adjustments. Most recently, Amendment 5 to the Herring FMP adopted a long-term monitoring/avoidance strategy to minimize RH/S catch and established the authority to develop catch caps for RH/S through a framework adjustment to the Atlantic Herring FMP. Quickly following the completion of Amendment 5, the Council developed Framework 3 to the Atlantic Herring FMP, which established catch caps for RH/S and related provisions to manage and minimize interactions with these species in the directed Atlantic herring fishery. The RH/S catch caps and related provisions implemented through Framework 3 became effective in late 2014.

The Mid-Atlantic Fishery Management Council (MAFMC) manages RH/S bycatch issues in the Atlantic mackerel fishery primarily through its Mackerel, Squid, and Butterfish (MSB) FMP. Recently, Amendment 14 to the Mackerel Squid Butterfish (MSB) FMP was developed in coordination with Amendment 5 to the Herring FMP and implemented a comprehensive catch monitoring system for the mackerel, squid, and butterfish (MSB) fishery. Many of the actions contained within both amendments were developed to compliment and/or replicate each other to avoid conflicting overlaps of restrictions on vessels that participate in both the herring and mackerel fisheries. Similarly, the Mid-Atlantic Council recently implemented a RH/S catch cap for the directed mackerel fishery through its specifications process. The 2014 RH/S catch cap for the Atlantic mackerel fishery is 236 mt. During the MSB specifications process (June 2014), the MAFMC voted to recommend a catch cap of 89-155 mt for the directed mackerel fishery for the 2015 fishing year (the amount will be scaled based on mackerel catch in the directed mackerel fishery during the fishing year). There will be opportunity for the two Councils to better align the catch caps in the overlapping southern New England/Mid-Atlantic area for the 2016 fishing year and beyond. The New England Council built flexibility into the RH/S catch cap process in Framework 3 to allow development of a joint herring/mackerel fishery RH/S catch cap for the southern New England/Mid-Atlantic area with the MAFMC.

TEWG

3.2.3 Updated RH/S Catch Data (Herring PDT)

To develop alternatives for the 2016-2018 RH/S catch caps, the Herring PDT updated RH/S catch data and estimates of RH/S catch by gear type and RH/S catch cap area for the 2013 and 2014 fishing years, providing a longer time series of data (2008-2014) than Framework 3 (2008-2012). As part of this process, the 2008-2012 RH/S catch cap data used in Fw 3 were also revised/updated by the Herring PDT to:

- (1) Incorporate some shad landings that were previously omitted;
- (2) Include trips from multiple catch cap areas that were previously omitted because sub-trips (catch from one cap area) did not meet the 6,600-pound Atlantic herring landings threshold; and
- (3) Improve matching of trips sampled by multiple agencies (for removal of redundancies).

A complete discussion of the Herring PDT analysis and updated RH/S catch data can be found in Appendix I (XXX). Summary information is provided below.

The tables/figures on the following pages provide updated RH/S catch estimates by gear/area/year and encompass all of the changes from the Fw 3 data/methods listed below (discussed in more detail in Appendix I):

- Includes shad landings that were previously omitted from RH/S catch estimates;
- Includes trips that were previously omitted because sub-trips did not meet 6,600 lbs Atlantic herring criteria;
- Improved matching of trips sampled by multiple agencies (for removal of redundancies);
- Use of *true ratio estimator*, expanded by KALL of all cap trips: $RHS_{tot} = KALL_{tot} * \frac{\sum RHS_{obs}}{\sum KALL_{obs}}$
- Use of DMIS KALL (total lbs of all species kept from NOAA-reconciled dealer/fishermen data) in all expansions (to the trip and to the fishery);
- $RHS_{obs} = RHS_{kept} + RHS_{discard}$; RHS_{kept} is based on a pooled at-sea and portside dataset, whereas $RHS_{discard}$ is based only on at-sea data.

Summarize figures and tables

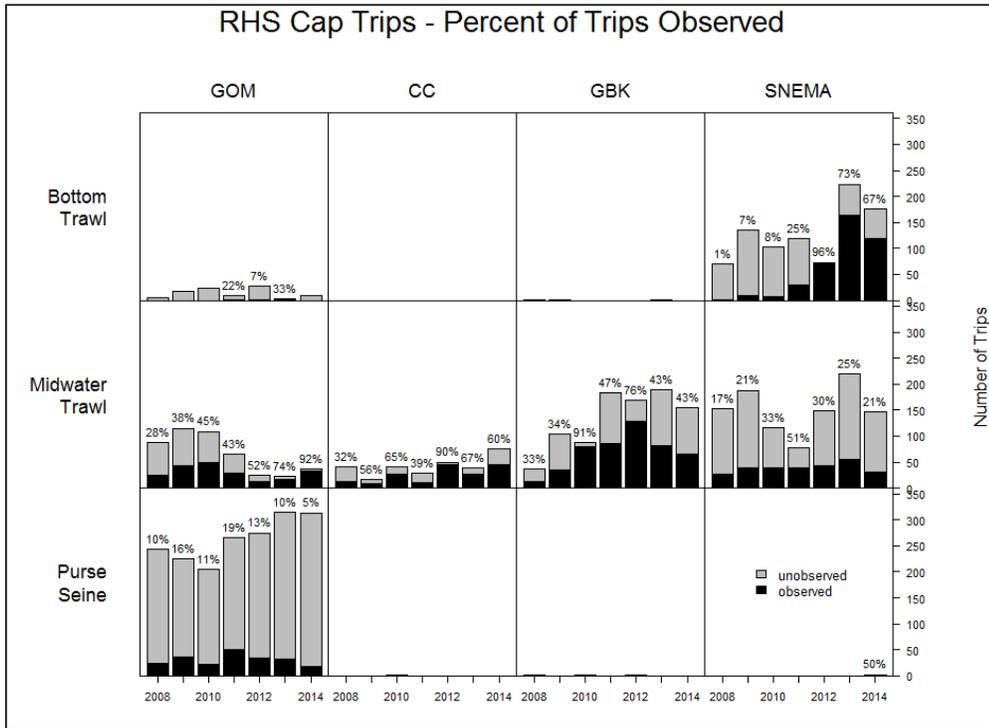
Add table for total number of cap trips taken

Table 20 At-Sea and Portside Sampled RH/S Catch Cap Trips by Strata, 2008-2014

NEFOP At-Sea Observed Cap Trips*									
<i>* only includes trips with >6,600 lbs herring</i>									
Gear	Cap Area	2008	2009	2010	2011	2012	2013	2014	Total
Bottom Trawl	GOM	0	0	0	2	2	1	0	5
	SNEMA	1	9	7	20	19	46	47	149
Midwater Trawl	CC	11	9	24	11	38	14	36	143
	GB	12	33	79	77	114	72	44	431
	GOM	17	40	40	25	8	11	20	161
	SNEMA	26	30	34	34	23	13	5	165
Purse Seine	GOM	24	35	22	51	35	31	15	213
	Total	91	156	206	220	239	188	167	1,267
MADMF Portside Observed Cap Trips*									
<i>* only includes trips with >6,600 lbs herring that were not also sampled at-sea by NEFOP</i>									
Gear	Cap Area	2008	2009	2010	2011	2012	2013	2014	Total
Bottom Trawl	SNEMA	0	0	0	9	49	112	67	237
Midwater Trawl	CC	2	0	2	0	6	12	9	31
	GB	0	2	0	9	13	9	22	55
	GOM	8	4	9	3	4	6	13	47
	SNEMA	0	7	4	5	20	31	18	85
Purse Seine	GOM	0	2	0	0	0	0	1	3
	Total	10	15	15	26	92	170	130	458
MEDMR Portside Observed Cap Trips*									
<i>* only includes trips with >6,600 lbs herring that were not also sampled at-sea by NEFOP</i>									
Gear	Cap Area	2008	2009	2010	2011	2012	2013	2014	Total
Bottom Trawl	SNEMA	0	0	1	1	2	5	4	13
Midwater Trawl	CC	0	0	0	0	1	0	0	1
	GB	0	0	0	0	1	0	0	1
	SNEMA	0	2	0	0	1	11	7	21
Purse Seine	GOM	0	0	0	0	0	1	1	2
	Total	0	2	1	1	5	17	12	38

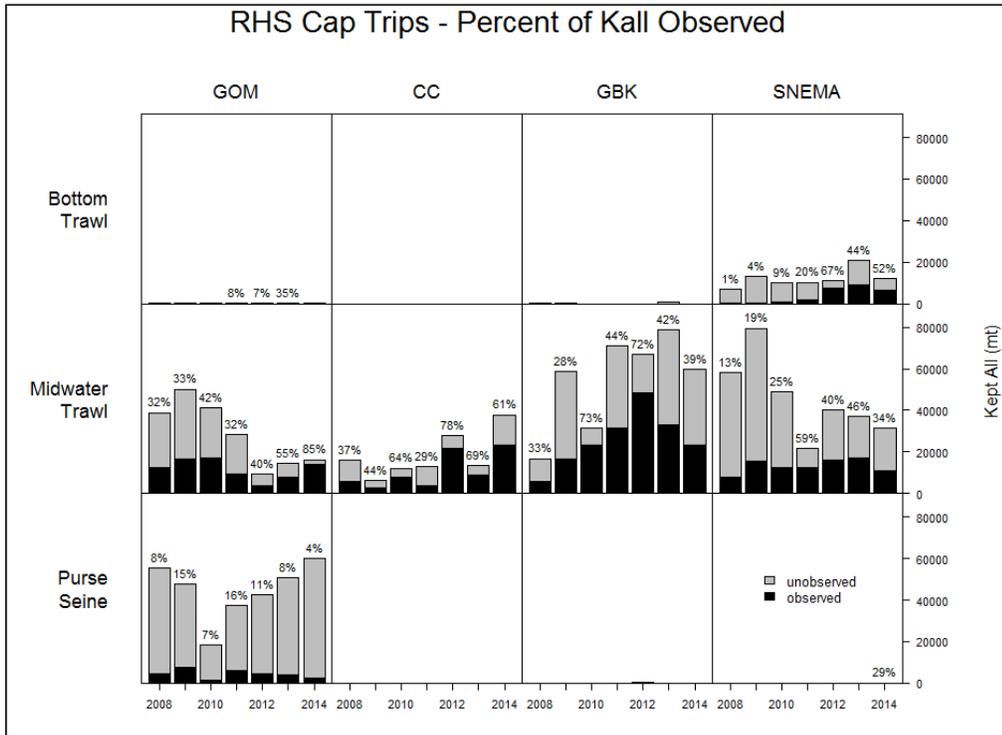
**If a trip occurred in multiple areas, it was assigned to the area where the majority of catch occurred.*

Figure 5 Total Number of Trips that Caught >6,600 lbs of Atlantic Herring by Year, Gear, and RH/S Catch Cap Area, 2008-2014



The dark portion of each bar represents the proportion of total trips that was observed in that year, with the % observed shown above each bar.

Figure 6 Total Catch of All Species (Kall) from Trips that Caught >6,600 lbs of Atlantic Herring by Year, Gear, and Catch Cap Area, 2008-2014



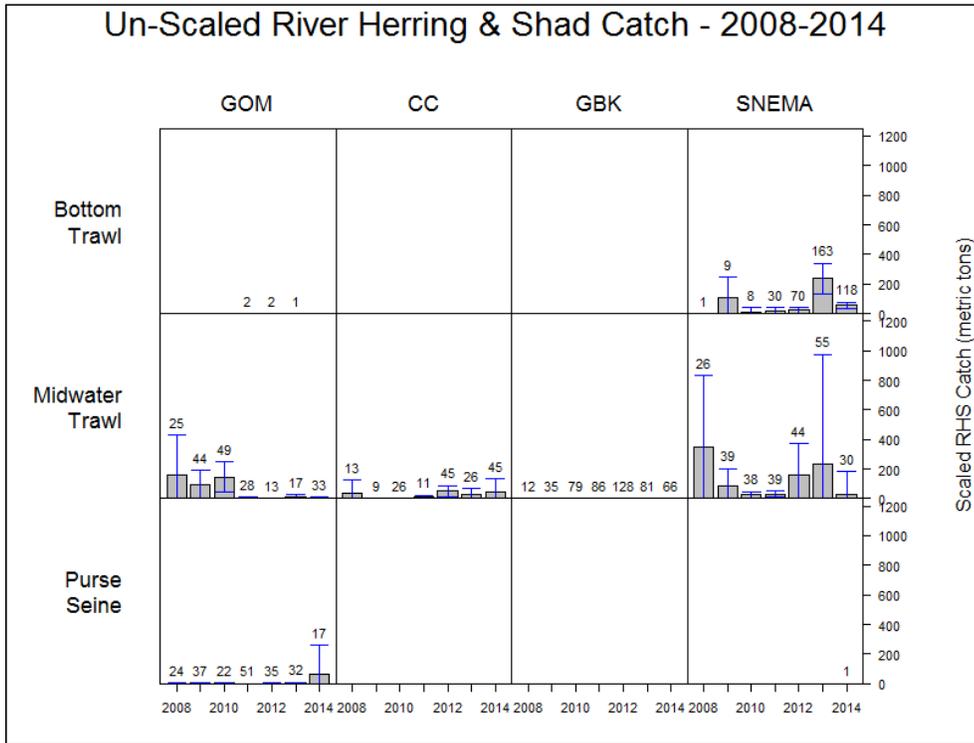
The dark portion of each bar represents the proportion of total Kall that was observed in that year, with the % observed shown above each bar.

Table 21 Updated RH/S Catch Estimates (Unscaled)

		Bottom Trawl		Midwater Trawl	
		Median	Wgt Mean	Median	Wgt Mean
GOM	Fw3 (08-12)			85.5	96.3
	Fw3 Revised (08-12)			98.1	98.3
	Seven Years (08-14)			11.3	76.7
CC	Fw3 (08-12)			13.3	32.5
	Fw3 Revised (08-12)			8.9	27.6
	Seven Years (08-14)			29.5	32.4
SNE/MA	Fw3 (08-12)	88.9	61.5	123.7	235.3
	Fw3 Revised (08-12)	19.6	28.2	83.9	115.4
	Seven Years (08-14)	24.0	122.3	83.9	129.6

Note: The RH/S catch estimates provided in the table above form the basis of the alternatives under consideration for the 2016-2018 RH/S catch caps (see Section 2.3, p. 27).

Figure 7 Estimated Total RH/S Catch from Trips that Caught >6,600 lbs of Atlantic Herring by Year, Gear, and Catch Cap Area, 2008-2014



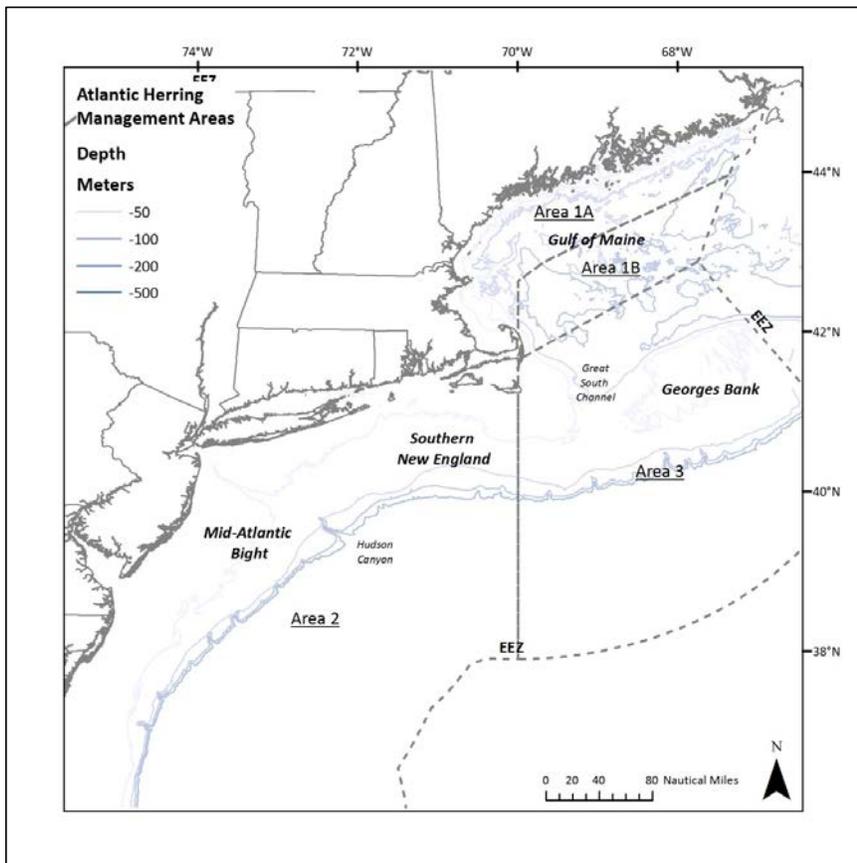
The blue error bars represent 2 standard errors, and the number above each bar is the number of observed trips.

3.3 PHYSICAL ENVIRONMENT AND ESSENTIAL FISH HABITAT

3.3.1 Physical Environment

The Atlantic herring fishery is prosecuted in four areas defined as Areas 1A, 1B, 2, and 3 (Figure 8). These areas collectively cover the entire northeast U.S. shelf ecosystem, which has been defined as the Gulf of Maine south to Cape Hatteras, North Carolina, extending from the coast seaward to the edge of the continental shelf, including offshore to the Gulf Stream (Sherman et al. 1996). Three distinct sub-regions, the Gulf of Maine, Georges Bank, and the southern New England/Mid-Atlantic region, were described in the Affected Environment section of Amendment 5 to the Atlantic Herring FMP, based on a summary compiled for the gear effects technical memo authored by Stevenson et al. (2004). Roughly, Areas 1A and 1B cover the Gulf of Maine, Area 2 covers southern the New England/Mid-Atlantic region, and Area 3 covers Georges Bank.

Figure 8 Atlantic Herring Management Areas and the Northeast U.S. Shelf Ecosystem



3.3.2 Essential Fish Habitat (EFH)

Since 1996, the MSA has included a requirement to evaluate the potential adverse effects of the Atlantic herring fishery on Atlantic herring EFH and on the EFH of other species. The EFH final rule specifies that measures to minimize impacts should be enacted when adverse effects that are ‘more than minimal’ and ‘not temporary in nature’ are anticipated.

The magnitude of adverse effects resulting from a fishery’s operations is generally related to (1) the location of fishing effort, because habitat vulnerability is spatially heterogeneous, and (2) the amount of fishing effort, specifically the amount of seabed area swept or bottom time. To the extent that adoption of a particular alternative would shift fishing to more vulnerable habitats, and/or increase seabed area swept, adoption would be expected to cause an increase in habitat impacts as compared to no action. If adoption of an alternative is expected to reduce seabed area swept or cause fishing effort to shift away from more vulnerable into less vulnerable habitats, a

decrease in habitat impacts would be expected. The magnitude of an increase or decrease in adverse effects relates to the proportion of total fishing effort affected by a particular alternative.

Bearing in mind that both the direction and magnitude of changes are difficult to predict, because changes in fishing behavior in response to management actions can be difficult to predict, potential shifts in adverse effects are discussed for each of the alternatives proposed in this action. However, changes in the magnitude of fishing effort as a result of individual measures should be viewed in the context of the overall impacts that the herring fishery is estimated to have on seabed habitats. *Specifically, previous analyses have concluded that adverse effect to EFH that result from operation of the herring fishery do not exceed the more than minimal or more than temporary thresholds.*

An assessment of the potential effects of the directed Atlantic herring commercial fishery on EFH for Atlantic herring and other federally-managed species in the Northeast region of the U.S. was conducted as part of an EIS that evaluated impacts of the Atlantic herring fishery on EFH (NMFS 2005). This analysis was included in Appendix VI, Volume II of the FEIS for Amendment 1 to the Atlantic Herring FMP. It found that midwater trawls and purse seines do occasionally contact the seafloor and may adversely impact benthic habitats utilized by a number of federally-managed species, including EFH for Atlantic herring eggs. However, after reviewing all the available information, the conclusion was reached that if the quality of EFH is reduced as a result of this contact, the impacts are minimal and/or temporary and, pursuant to MSA, do not need to be minimized, i.e., that there was no need to take specific action at that time to minimize the adverse effects of the herring fishery on benthic EFH. This conclusion also applied to pelagic EFH for Atlantic herring larvae, juveniles, and adults, and to pelagic EFH for any other federally-managed species in the region.

EFH for Atlantic Herring

The EFH designation for Atlantic herring was developed as part of EFH Omnibus Amendment 1 in 1998. EFH Omnibus Amendment 2, which includes updates to the EFH designation for herring, as well as for other NEFMC-managed species, is currently in development. Based on the 1998 designation, which is currently in effect, EFH for Atlantic herring is described in as those areas of the coastal and offshore waters (out to the offshore U.S. boundary of the exclusive economic zone) that are designated in Figure 9 through Figure 12 and in Table 22 and meet the following conditions:

Eggs: Bottom habitats with a substrate of gravel, sand, cobble and shell fragments, but also on aquatic macrophytes, in the Gulf of Maine and Georges Bank as depicted in Figure 9. Eggs adhere to the bottom, forming extensive egg beds which may be many layers deep. Generally, the following conditions exist where Atlantic herring eggs are found: water temperatures below 15° C, depths from 20 - 80 meters, and a salinity range from 32 - 33‰. Herring eggs are most often found in areas of well-mixed water, with tidal currents between 1.5 and 3.0 knots. Atlantic herring eggs are most often observed during the months from July through November.

Larvae: Pelagic waters in the Gulf of Maine, Georges Bank, and southern New England that comprise 90% of the observed range of Atlantic herring larvae as depicted in Figure 10. Generally, the following conditions exist where Atlantic herring larvae are found: sea surface

temperatures below 16° C, water depths from 50 – 90 meters, and salinities around 32‰. Atlantic herring larvae are observed between August and April, with peaks from September through November.

Juveniles: Pelagic waters and bottom habitats in the Gulf of Maine, Georges Bank, southern New England and the middle Atlantic south to Cape Hatteras as depicted in Figure 11. Generally, the following conditions exist where Atlantic herring juveniles are found: water temperatures below 10° C, water depths from 15 – 135 meters, and a salinity range from 26 – 32‰.

Adults: Pelagic waters and bottom habitats in the Gulf of Maine, Georges Bank, southern New England and the middle Atlantic south to Cape Hatteras as depicted in Figure 12. Generally, the following conditions exist where Atlantic herring adults are found: water temperatures below 10° C, water depths from 20 – 130 meters, and salinities above 28‰.

Spawning Adults: Bottom habitats with a substrate of gravel, sand, cobble and shell fragments, but also on aquatic macrophytes, in the Gulf of Maine, Georges Bank, southern New England and the middle Atlantic south to Delaware Bay as depicted in Figure 12. Generally, the following conditions exist where spawning Atlantic herring adults are found: water temperatures below 15° C, depths from 20 - 80 meters, and a salinity range from 32 - 33‰. Herring eggs are spawned in areas of well-mixed water, with tidal currents between 1.5 and 3.0 knots. Atlantic herring are most often observed spawning during the months from July through November.

All of the above EFH descriptions include those bays and estuaries listed in Table 22, according to life history stage. The Council acknowledges potential seasonal and spatial variability of the conditions generally associated with this species.

Table 22 EFH Designation of Estuaries and Embayments for Atlantic Herring

Estuaries and Embayments	Eggs	Larvae	Juveniles	Adults	Spawning Adults
Passamaquoddy Bay		m,s	m,s	m,s	
Englishman/Machias Bay	s	m,s	m,s	m,s	s
Narraguagus Bay		m,s	m,s	m,s	
Blue Hill Bay		m,s	m,s	m,s	
Penobscot Bay		m,s	m,s	m,s	
Muscongus Bay		m,s	m,s	m,s	
Damariscotta River		m,s	m,s	m,s	
Sheepscot River		m,s	m,s	m,s	
Kennebec / Androscoggin Rivers		m,s	m,s	m,s	
Casco Bay	s	m,s	m,s	s	
Saco Bay		m,s	m,s	s	
Wells Harbor		m,s	m,s	s	
Great Bay		m,s	m,s	s	
Merrimack River		M	m		
Massachusetts Bay		s	s	s	
Boston Harbor		s	m,s	m,s	
Cape Cod Bay	s	s	m,s	m,s	
Waquoit Bay					
Buzzards Bay			m,s	m,s	
Narragansett Bay		s	m,s	m,s	
Long Island Sound			m,s	m,s	
Connecticut River					
Gardiners Bay			s	s	
Great South Bay			s	s	
Hudson River / Raritan Bay		m,s	m,s	m,s	
Barnegat Bay			m,s	m,s	
Delaware Bay			m,s	s	
Chincoteague Bay					
Chesapeake Bay				s	

S ≡ The EFH designation for this species includes the seawater salinity zone of this bay or estuary (salinity > 25.0‰).

M ≡ The EFH designation for this species includes the mixing water / brackish salinity zone of this bay or estuary (0.5 < salinity < 25.0‰).

F ≡ The EFH designation for this species includes the tidal freshwater salinity zone of this bay or estuary (0.0 < salinity < 0.5‰).

These EFH designations of estuaries and embayments are based on the NOAA Estuarine Living Marine Resources (ELMR) program (Jury et al. 1994; Stone et al. 1994).

Figure 9 EFH Designation for Atlantic Herring Eggs

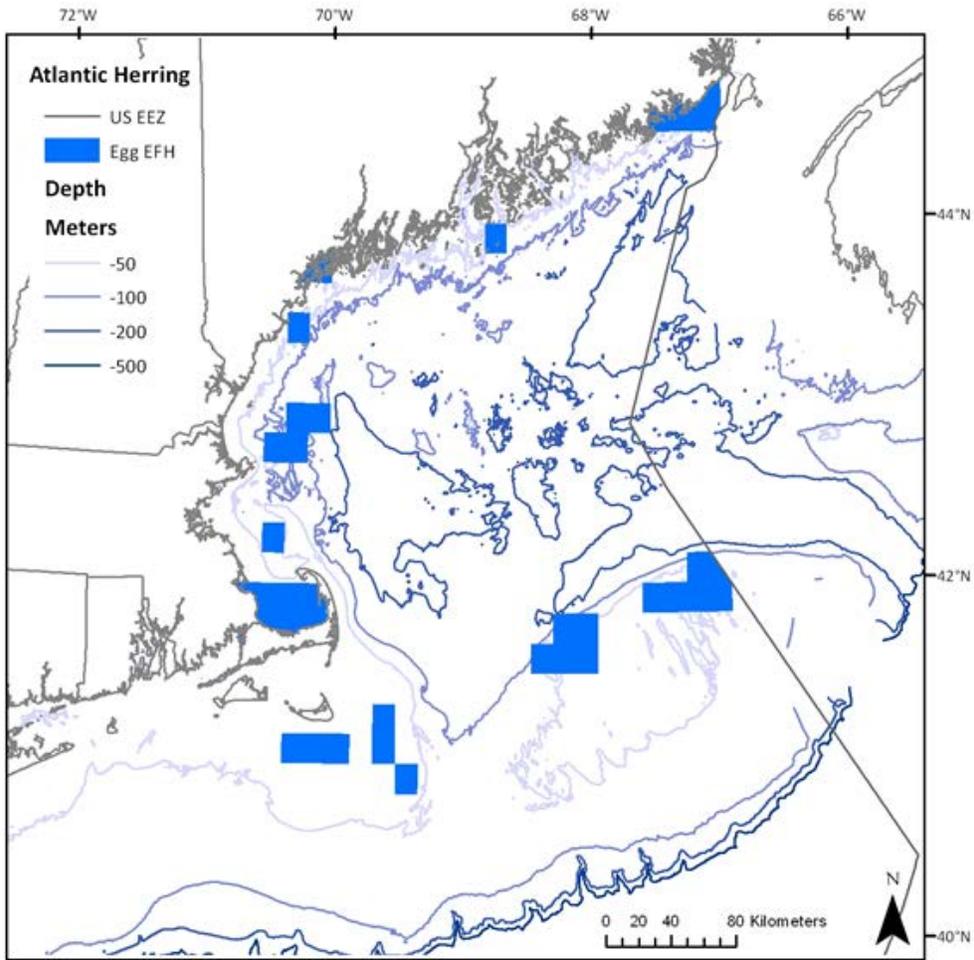


Figure 10 EFH Designation for Atlantic Herring Larvae

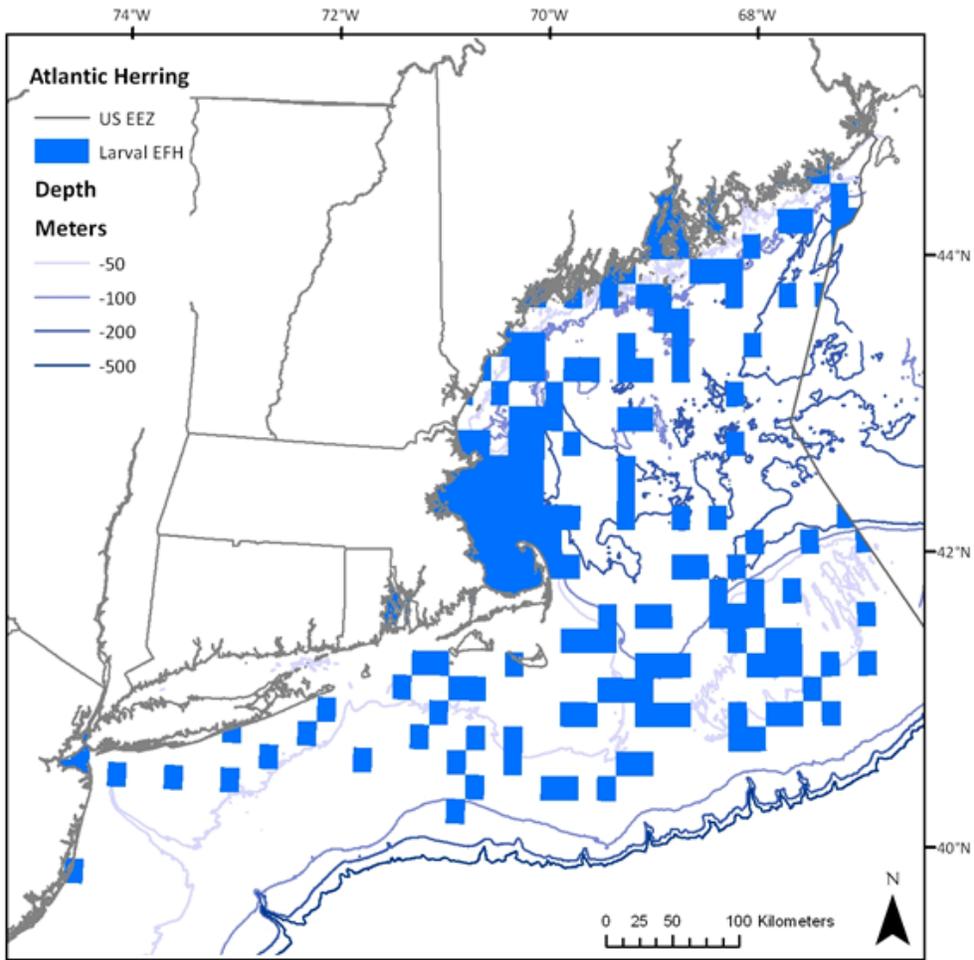


Figure 11 EFH Designation for Atlantic Herring Juveniles

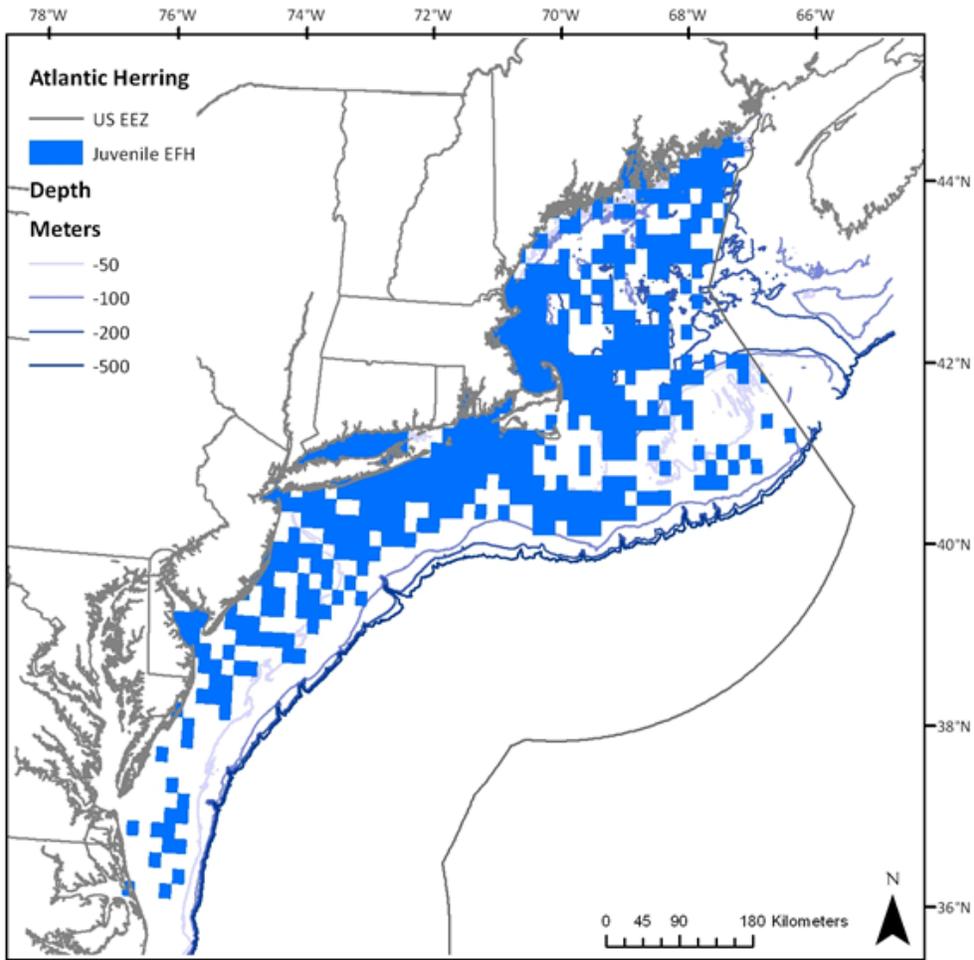
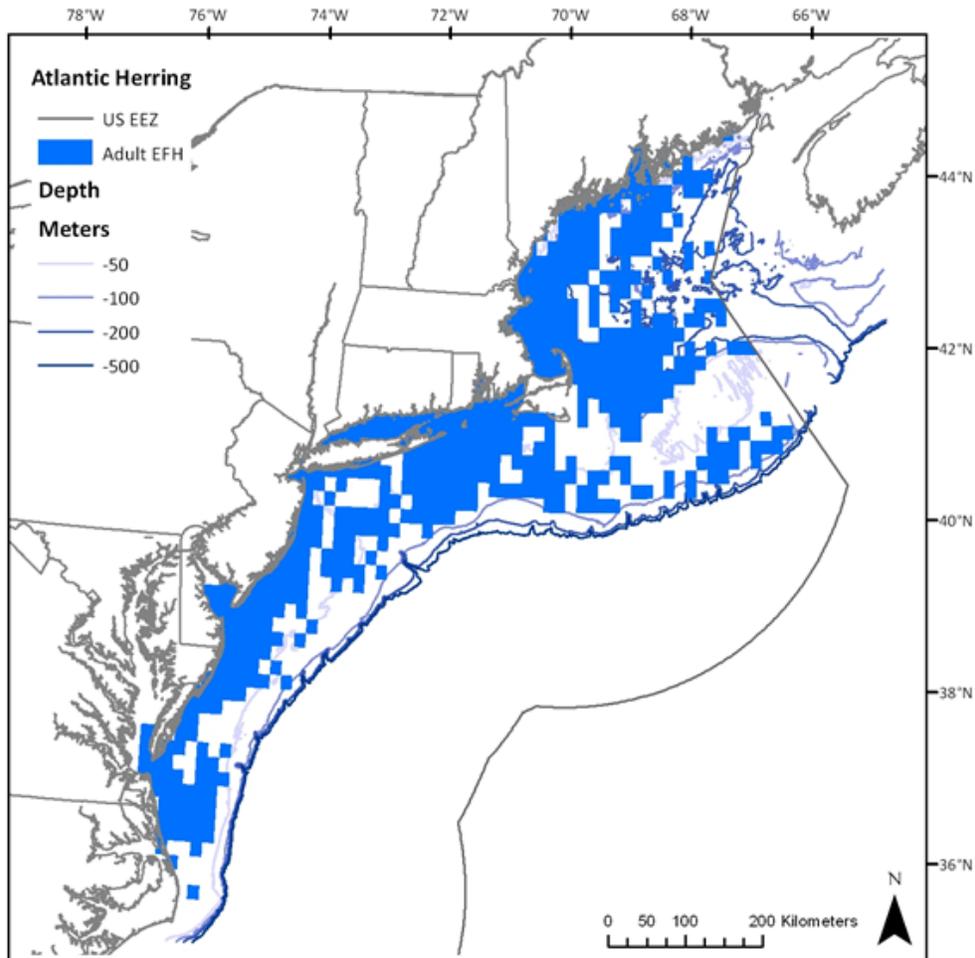


Figure 12 EFH Designation for Atlantic Herring Adults



EFH for Other Species

The environment that could potentially be affected by the Proposed Action has been identified as EFH for the benthic life stages of the species listed in Table 23. Additional information can be found in the FMP document that most recently updated each species' EFH designation (last column in Table 23). NOAA's EFH Mapper is also a good source of information and is a useful way to visualize the designations in a particular location:

<http://www.habitat.noaa.gov/protection/efh/efhmapper/index.html>.

Table 23 Listing of Sources for Current EFH Designation Information

Species	Management Authority	Plan Managed Under	Action where EFH designation was last updated
Monkfish	NEFMC, MAFMC	Monkfish	Amendment 1
Atlantic herring	NEFMC	Atlantic Herring	Original FMP
Atlantic salmon	NEFMC	Atlantic salmon	Original FMP
Atlantic sea scallop	NEFMC	Atlantic Sea Scallop	Amendment 9
American plaice	NEFMC	NE Multispecies	Amendment 11
Atlantic cod	NEFMC	NE Multispecies	Amendment 11
Atlantic halibut	NEFMC	NE Multispecies	Amendment 11
Atlantic wolffish	NEFMC	NE Multispecies	Amendment 16
Haddock	NEFMC	NE Multispecies	Amendment 11
Ocean pout	NEFMC	NE Multispecies	Amendment 11
Offshore hake	NEFMC	NE Multispecies	Amendment 12
Pollock	NEFMC	NE Multispecies	Amendment 11
Red hake	NEFMC	NE Multispecies	Amendment 12
Redfish	NEFMC	NE Multispecies	Amendment 11
Silver hake	NEFMC	NE Multispecies	Amendment 12
White hake	NEFMC	NE Multispecies	Amendment 11
Windowpane flounder	NEFMC	NE Multispecies	Amendment 11
Winter flounder	NEFMC	NE Multispecies	Amendment 11
Witch flounder	NEFMC	NE Multispecies	Amendment 11
Yellowtail flounder	NEFMC	NE Multispecies	Amendment 11
Barndoor skate	NEFMC	NE Skate Complex	Original FMP
Clearnose skate	NEFMC	NE Skate Complex	Original FMP
Little skate	NEFMC	NE Skate Complex	Original FMP
Rosette skate	NEFMC	NE Skate Complex	Original FMP
Smooth skate	NEFMC	NE Skate Complex	Original FMP
Thorny skate	NEFMC	NE Skate Complex	Original FMP
Winter skate	NEFMC	NE Skate Complex	Original FMP
Red crab	NEFMC	Red Crab	Original FMP
Spiny dogfish	MAFMC/NEFMC	Spiny Dogfish	Original FMP
Atlantic surfclam	MAFMC	Atlantic Surfclam Ocean Quahog	Amendment 12
Ocean quahog	MAFMC	Atlantic Surfclam Ocean Quahog	Amendment 12
Bluefish	MAFMC	Bluefish FMP	Amendment 1
Atlantic mackerel	MAFMC	Squid, Mackerel, Butterfish	Amendment 11
Butterfish	MAFMC	Squid, Mackerel, Butterfish	Amendment 11
Longfin squid	MAFMC	Squid, Mackerel, Butterfish	Amendment 11
Shortfin squid	MAFMC	Squid, Mackerel, Butterfish	Amendment 11

Note: Longfin squid egg EFH designation was in Amendment 9 to the Squid, Mackerel, Butterfish FMP.

Table 23 continued.

Black sea bass	MAFMC	Summer Flounder, Scup, and Black Sea Bass	Amendment 12
Scup	MAFMC	Summer Flounder, Scup, and Black Sea Bass	Amendment 12
Summer flounder	MAFMC	Summer Flounder, Scup, and Black Sea Bass	Amendment 12
Tilefish	MAFMC	Tilefish	Amendment 1

Note: Longfin squid egg EFH designation was in Amendment 9 to the Squid, Mackerel, Butterfish FMP.

3.4 PROTECTED RESOURCES

There are numerous protected species that inhabit the affected environment of the Atlantic Herring FMP management unit (Table 24). These species are afforded protection under the Endangered Species Act (ESA) of 1973 (i.e., for those designated as threatened or endangered) and/or the Marine Mammal Protection Act (MMPA) of 1972, and are under NMFS' jurisdiction. Table 24 also includes one candidate fish species (species being considered for listing as endangered or threatened), as identified under the ESA.

Table 24 Species and/or Critical Habitat Protected Under the ESA and/or MMPA that Occur in the Affected Environment of the Atlantic Herring Fishery

Species	Status	Potentially affected by this action? ¹
<u>Cetaceans</u>		
North Atlantic right whale (<i>Eubalaena glacialis</i>)	Endangered	No
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered	Yes
Fin whale (<i>Balaenoptera physalus</i>)	Endangered	Yes
Sei whale (<i>Balaenoptera borealis</i>)	Endangered	Yes
Blue whale (<i>Balaenoptera musculus</i>)	Endangered	No
Sperm whale (<i>Physeter macrocephalus</i>)	Endangered	No
Minke whale (<i>Balaenoptera acutorostrata</i>)	Protected	Yes
Pilot whale (<i>Globicephala spp.</i>)²	Protected	Yes
Risso's dolphin (<i>Grampus griseus</i>)	Protected	Yes
Atlantic white-sided dolphin (<i>Lagenorhynchus acutus</i>)	Protected	Yes
Short Beaked Common dolphin (<i>Delphinus delphis</i>) ³	Protected	Yes
Bottlenose dolphin (<i>Tursiops truncatus</i>) ⁴	Protected	No
Harbor porpoise (<i>Phocoena phocoena</i>)	Protected	No
Pygmy sperm whale (<i>Kogia breviceps</i>)	Protected	No
Dwarf sperm whale (<i>Kogia sima</i>)	Protected	No

Species	Status	Potentially affected by this action? ¹
Striped dolphin (<i>Stenella coeruleoalba</i>)	Protected	No
Atlantic spotted dolphin (<i>Stenella frontalis</i>)	Protected	No
Beaked whales (<i>Ziphius and Mesoplodon spp</i>)⁵	Protected	No
<u>Sea Turtles</u>		
Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Endangered	Yes
Kemp's ridley sea turtle (<i>Lepidochelys kempi</i>)	Endangered	Yes
Green sea turtle (<i>Chelonia mydas</i>)	Endangered ⁶	Yes
Loggerhead sea turtle (<i>Caretta caretta</i>), Northwest Atlantic DPS	Threatened	Yes
Hawksbill sea turtle (<i>Eretmochelys imbricate</i>)	Endangered	No
<u>Fish</u>		
Shortnose sturgeon (<i>Acipenser brevirostrum</i>)	Endangered	No
Atlantic salmon (<i>Salmo salar</i>)	Endangered	No
Atlantic sturgeon (<i>Acipenser oxyrinchus</i>)		
<i>Gulf of Maine DPS</i>	Threatened	Yes
<i>New York Bight DPS, Chesapeake Bay DPS, Carolina DPS & South Atlantic DPS</i>	Endangered	Yes
Cusk (<i>Brosme brosme</i>)	Candidate	No
<u>Pinnipeds</u>		
Harbor seal (<i>Phoca vitulina</i>)	Protected	Yes
Gray seal (<i>Halichoerus grypus</i>)	Protected	Yes
Harp seal (<i>Phoca groenlandicus</i>)	Protected	No
Hooded seal (<i>Cystophora cristata</i>)	Protected	No
<u>Critical Habitat</u>		
North Atlantic Right Whale Critical Habitat ⁷		No
Northwest Atlantic DPS of Loggerhead Sea Turtle Critical Habitat		No

Bolded/shaded species prefer continental shelf edge/slope waters (i.e., >200 meters), although incursions into continental shelf waters do occur seasonally or sporadically during periods of high prey abundance.

Additional Notes:

¹ The determination for whether a species may be affected by the Atlantic herring fishery is based on whether there has been confirmed Atlantic herring fishery interaction with the species or confirmed interactions with gear types similar to those primarily used in the Atlantic herring fishery (see Waring *et al.* 2007, 2014, 2015; NMFS NEFSC FSB 2015; http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html).

² There are 2 species of pilot whales: short finned (*G. melas melas*) and long finned (*G. macrorhynchus*). Due to the difficulties in identifying the species at sea, they are often just referred to as *Globicephala spp.*

³ Prior to 2008, this species was called “common dolphin.”

⁴ This includes the Western North Atlantic Offshore, Northern Migratory Coastal, and Southern Migratory Coastal Stocks of Bottlenose Dolphins.

⁵ There are multiple species of beaked whales in the Northwest Atlantic. They include the cuvier’s (*Ziphius cavirostris*), blainville’s (*Mesoplodon densirostris*), gervais’ (*Mesoplodon europaeus*), sowerbys’ (*Mesoplodon bidens*), and trues’ (*Mesoplodon mirus*) beaked whales. Species of *Mesoplodon*; however, are difficult to identify at sea, and therefore, much of the available characterization for beaked whales is to the genus level only.

⁶ Green turtles in U.S. waters are listed as threatened except for the Florida breeding population which is listed as endangered. Due to the inability to distinguish between these populations away from the nesting beach, green turtles are considered endangered wherever they occur in U.S. waters. On March 23, 2015, a proposed rule was issued to remove the current range-wide listing and, in its place, list eight DPSs as threatened and three as endangered (80 FR 15272).

⁷ Originally designated June 3, 1994 (59 FR 28805); Newly proposed February 20, 2015 (80 FR 9314).

In Table 24, please note that cusk, a NMFS "species of concern," as well as a "candidate species" under the ESA, occurs in the affected environment of the Atlantic herring fishery. Candidate species are those petitioned species that NMFS is actively considering for listing as endangered or threatened under the ESA and also include those species for which NMFS has initiated an ESA status review through an announcement in the Federal Register. Once a species is proposed for listing the conference provisions of the ESA apply (see 50 CFR 402.10); however, candidate species receive no substantive or procedural protection under the ESA. As a result, this species will not be discussed further in this section. However, for additional information on cusk and proactive conservation efforts being initiated for the species, please visit http://www.nero.noaa.gov/prot_res/CandidateSpeciesProgram/CuskSOC.html.

3.4.1 Species and Critical Habitat Not Likely to be Affected by the Proposed Action

Based on available information, it has been determined that this action is not likely to affect Atlantic right whales, blue whales, sperm whales, pygmy sperm whales, dwarf sperm whales, striped dolphins, Atlantic spotted dolphins, bottlenose dolphins, harbor porpoise, beaked whales, Atlantic salmon, shortnose sturgeon, hooded seals, harp seals, or hawksbill sea turtles. Further, this action is not likely to adversely affect the Northwest Atlantic DPS of loggerhead or North Atlantic right whale critical habitats. This determination has been made because either the occurrence of the species is not known to overlap with the Atlantic herring fishery and/or there have never been documented interactions between the species and the Atlantic herring fishery (Waring et al. 2014, 2015; NMFS NEFSC FSB 2015; See: http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html). In the case of critical habitat, this determination has been made because the Atlantic herring fishery will not affect the primary constituent elements of the critical habitat, and therefore, will not result in the destruction or adverse modification of critical habitat (See: <http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm>).

3.4.2 Species Potentially Affected by the Proposed Action

3.4.2.1 Sea Turtles

There are four species of sea turtles that occur in the affected environment of the Atlantic herring fishery. Three of the four species are considered hard-shelled turtles (i.e., green, loggerhead, and Kemp's ridley). A general overview of sea turtle occurrence and distribution in waters of the Northwest Atlantic Ocean is provided below to assist in understanding how the Atlantic herring fishery overlaps in time and space with the occurrence of sea turtles. Additional background information on the range-wide status of the four sea turtle species, as well as a description and life history of the species, can be found in a number of published documents, including sea turtle status reviews and biological reports (NMFS and USFWS 1995; Hirth 1997; Turtle Expert Working Group [TEWG] 1998, 2000, 2007, 2009; NMFS and USFWS 2007a, 2007b; Conant et al. 2009; NMFS and USFWS 2013), and recovery plans for the loggerhead sea turtle (Northwest Atlantic DPS; NMFS and USFWS 2008), leatherback sea turtle (NMFS and USFWS 1992, 1998a), Kemp's ridley sea turtle (NMFS et al. 2011), and green sea turtle (NMFS and USFWS 1991, 1998b).

Hard-shelled sea turtles

Distribution

In U.S. Northwest Atlantic waters, hard-shelled turtles commonly occur throughout the continental shelf from Florida (FL) to Cape Cod, Massachusetts (MA), although their presence varies with the seasons due to changes in water temperature (Shoop and Kenney 1992; Epperly et al. 1995a, 1995b; Braun and Epperly 1996; Mitchell et al. 2003; Braun-McNeill et al. 2008; TEWG 2009). While hard-shelled turtles are most common south of Cape Cod, MA, loggerhead sea turtles are known to occur in the Gulf of Maine (GOM), feeding as far north as southern Canada. Loggerheads have been observed in waters with surface temperatures of 7°C to 30°C, but water temperatures ≥ 11 °C are most favorable (Shoop and Kenney 1995b). Sea turtle presence in U.S. Atlantic waters is also influenced by water depth. While hard-shelled turtles occur in waters from the beach to beyond the continental shelf, they are most commonly found in neritic waters of the inner continental shelf (Mitchell et al. 2003; Braun-McNeill and Epperly 2004; Morreale and Standora 2005; Blumenthal et al. 2006; Hawkes et al. 2006; McClellan and Read 2007; Mansfield et al. 2009; Hawkes et al. 2011; Griffin et al. 2013).

Seasonality

Hard-shelled sea turtles occur year-round in waters south of Cape Hatteras, North Carolina (NC). As coastal water temperatures warm in the spring, loggerheads begin to migrate to inshore waters of the southeast United States and also move up the Atlantic Coast (Epperly et al. 1995a, 1995b, 1995c; Braun-McNeill and Epperly 2004; Morreale and Standora 2005; Griffin et al. 2013), occurring in Virginia (VA) foraging areas as early as late April and on the most northern foraging grounds in the GOM in June (Shoop and Kenney 1992). The trend is reversed in the fall as water temperatures cool. The large majority leave the GOM by September, but some remain in Mid-Atlantic and Northeast areas until late fall. By December, sea turtles have migrated south to waters offshore of NC, particularly south of Cape Hatteras, and further south (Shoop and Kenney 1992; Epperly et al. 1995b; Hawkes et al. 2011; Griffin et al. 2013).

Leatherback sea turtles.

Leatherback sea turtles also engage in routine migrations between northern temperate and tropical waters (NMFS and USFWS 1992; James et al. 2005; James et al. 2006; Dodge et al. 2014). Leatherbacks, a pelagic species, are also known to use coastal waters of the U.S. continental shelf (James et al. 2005; Eckert et al. 2006; Murphy et al. 2006; Dodge et al. 2014). Leatherbacks have a greater tolerance for colder water in comparison to hard-shelled sea turtles. They are also found in more northern waters later in the year, with most leaving the Northwest Atlantic shelves by mid-November (James et al. 2005; James et al. 2006; Dodge et al. 2014).

3.4.2.2 Large Cetaceans

Table 25 provides the species of large whales that occur in the affected environment of the Atlantic herring fishery. For additional information on the biology, status, and range wide distribution of each whale species please refer to: Waring et al. 2015; NMFS 1991, 2010b, 2011.

Table 25 Large Whale Species Present in the Affected Environment of the Atlantic Herring Fishery

Species	Listed Under the ESA	Protected Under the MMPA	MMPA Strategic Stock ¹
Humpback Whale	Yes-Endangered	Yes	Yes
Fin Whale	Yes-Endangered	Yes	Yes
Sei Whale	Yes-Endangered	Yes	Yes
Minke Whale	No	Yes	No

Notes:
¹A strategic stock is defined under the MMPA as a marine mammal stock: for which the level of direct human-caused mortality exceeds the potential biological removal level; which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the ESA within the foreseeable future; or which is listed as a threatened or endangered species under the ESA, or is designated as depleted under the MMPA.

Source: Waring *et al.* 2015

Humpback, fin, sei, and minke whales are found throughout the waters of the Northwest Atlantic Ocean. In general, these species follow an annual pattern of migration between low latitude (south of 35oN) wintering/calving grounds and high latitude spring/summer foraging grounds (primarily north of 41oN; Waring et al. 2015; NMFS 1991, 2010b, 2011). This, however, is a simplification of whale movements, particularly as it relates to winter movements. It remains unknown if all individuals of a population migrate to low latitudes in the winter, although, increasing evidence suggests that for some species (e.g., humpback whales), some portion of the population remains in higher latitudes throughout the winter (Waring et al. 2015; Clapham et al. 1993; Swingle et al. 1993; Vu et al. 2012). Although further research is needed to provide a

clearer understanding of large whale movements and distribution in the winter, the distribution and movements of large whales to foraging grounds in the spring/summer is well understood. Movements of whales into higher latitudes coincide with peak productivity in these waters. As a result, the distribution of large whales in higher latitudes is strongly governed by prey availability and distribution, with large numbers of whales coinciding with dense patches of preferred forage (Payne et al. 1986, 1990; Schilling et al. 1992). It is important to note, these foraging areas are consistently returned annually, and therefore, can be considered important, high use areas for whales. For additional information on the biology, status, and range wide distribution of each whale species please refer to: Waring et al. 2014, 2015; NMFS 1991, 2010b, 2011.

To further assist in understanding how the Atlantic herring fishery may overlaps in time and space with the occurrence of large whales, a general overview on species occurrence and distribution in the affected environment of the Atlantic herring fishery is provided in the following table (Table 26).

Table 26 Large Cetacean Occurrence in the Affected Environment of the Atlantic Herring Fishery

Species	Prevalence and Approximate Months of Occurrence
Humpback	<ul style="list-style-type: none"> • Distributed throughout all continental shelf waters of the Mid-Atlantic (SNE included), GOM, and GB throughout the year. • New England waters (GOM and GB regions): Foraging Grounds (approximately March-November). • Mid-Atlantic waters: Migratory pathway to/from northern (high latitude) foraging and southern (West Indies) calving grounds. • Increasing evidence of wintering areas (for juveniles) in Mid-Atlantic (e.g., waters in the vicinity of Chesapeake and Delaware Bays; peak presence approximately January through March).
Fin	<ul style="list-style-type: none"> • Distributed throughout all continental shelf waters of the Mid-Atlantic (SNE included), GOM, and GB throughout the year. • Mid-Atlantic waters: <ul style="list-style-type: none"> › Migratory pathway to/from northern (high latitude) foraging and southern (low latitude) calving grounds. › Possible offshore calving area (October-January) • New England/SNE waters (GOM, GB, and SNE regions): Foraging Grounds (greatest densities March-August; lower densities September-November). Important foraging grounds include: <ul style="list-style-type: none"> > Massachusetts Bay (esp. Stellwagen Bank) > Great South Channel > Waters off Cape Cod (~40-50 meter contour)

Species	Prevalence and Approximate Months of Occurrence
	<ul style="list-style-type: none"> > western GOM (esp. Jeffrey's Ledge) > Eastern perimeter of GB > Mid-shelf area off the east end of Long Island. • Evidence of wintering areas in mid-shelf areas east of New Jersey, Stellwagen Bank; and eastern perimeter of GB.
Sei	<ul style="list-style-type: none"> • Uncommon in shallow, inshore waters of the Mid-Atlantic (SNE included), GB, and GOM; however, occasional incursions during peak prey availability and abundance. • Primarily found in deep waters along the shelf edge, shelf break, and ocean basins between banks. • Spring through summer, found in greatest densities in offshore waters of the GOM and GB (eastern margin into the Northeast Channel area; along the southwestern edge in the area of Hydrographer Canyon).
Minke	<ul style="list-style-type: none"> • Widely distributed throughout continental shelf waters of the Mid-Atlantic (SNE included), GOM, and GB during the spring, summer and fall; however, spring through summer found in greatest densities in the GOM and GB.

Sources: NMFS 1991, 2010b, 2011; Hain *et al.* 1992; Payne 1984; Payne *et al.* 1990; CETAP 1982; Clapham *et al.* 1993; Swingle *et al.* 1993; Vu *et al.* 2012; Baumgartner *et al.* 2011; Risch *et al.* 2013; Waring *et al.* 2014; Waring *et al.* 2015.

3.4.2.3 Small Cetaceans

The following MMPA protected small cetaceans may occur in the affected environment of the Atlantic herring fishery: Atlantic white sided dolphins, short and long finned pilot whales, rissos dolphins, and short beaked common dolphins. These species can be found throughout the year in waters of the Northwest Atlantic Ocean (Waring *et al.* 2014, 2015). Within this range; however, there are seasonal shifts in species distribution and abundance. To further assist in understanding how the Atlantic herring fishery may overlap in time and space with the occurrence of small cetaceans, a general overview of species occurrence and distribution in the affected environment of the Atlantic herring fishery is provided in the following table (Table 27). For additional information on the biology, status, and range wide distribution of each species please refer to Waring *et al.* 2014, 2015.

Table 27 Small Cetacean Occurrence in the Affected Environment of the Atlantic Herring Fishery

Species	Prevalence and Approximate Months of Occurrence

Species	Prevalence and Approximate Months of Occurrence
Atlantic White Sided Dolphin	<ul style="list-style-type: none"> • Distributed throughout the continental shelf waters (primarily to 100 meter isobath) of the Mid-Atlantic (north of 35°N), Southern New England, GB, and GOM ; however, most common in continental shelf waters from Hudson Canyon (~ 39°N) onto GB, and into the GOM. • January-May: low densities found from GB to Jeffreys Ledge. • June-September: Large densities found from GB, through the GOM. • October-December: intermediate densities found from southern GB to southern GOM. • South of GB (SNE and Mid-Atlantic), low densities found year round, with waters off VA and NC representing southern extent of species range during winter months.
Short Beaked Common Dolphin	<ul style="list-style-type: none"> • Regularly found throughout the continental shelf-edge-slope waters (primarily between the 100-2,000 meter isobaths) of the Mid-Atlantic, SNE, and GB (esp. in Oceanographer, Hydrographer, Block, and Hudson Canyons). • Less common south of Cape Hatteras, NC, although schools have been reported as far south as the Georgia (GA)/South Carolina (SC) border. • January-May: occur from waters off Cape Hatteras, NC, to GB (35° to 42°N). • Mid-summer-autumn: Occur primarily on GB with small numbers present in the GOM; <i>Peak abundance</i> found on GB in the autumn.
Risso's Dolphin	<ul style="list-style-type: none"> • Common in the continental shelf edge waters from FL to eastern Newfoundland; low numbers found in the GOM. • March-November: distributed along continental shelf edge from Cape Hatteras, NC, to GB. • December-February: primarily distributed in continental shelf edge of the Mid-Atlantic (including SNE), although species can be found in the Mid-Atlantic year round.
Pilot Whales: <i>Short- and Long-Finned</i>	<p><u>Short- Finned Pilot Whales</u></p> <ul style="list-style-type: none"> • Primarily occur south of 40°N (Mid-Atl and SNE waters); although low numbers have been found along the southern flank of GB, but no further than 41°N. • May through December (approximately): distributed primarily

Species	Prevalence and Approximate Months of Occurrence
	<p>near the continental shelf break of the Mid-Atlantic and SNE; individuals begin shifting to southern waters (i.e., 35°N and south) beginning in the fall.</p> <p><u>Long-Finned Pilot Whales</u></p> <ul style="list-style-type: none"> • Range from 35°N to 44°N • Winter to early spring (November through April): primarily distributed along the continental shelf edge-slope of the Mid-Atlantic, SNE, and GB. • Late spring through fall (May through October): movements and distribution shift onto/within GB, the Great South Channel, and the GOM. <p><u>Area of Species Overlap:</u> between 38°N and 41°N</p>
<p>Notes : ¹ Information presented in table is representative of small cetacean occurrence in the Northwest Atlantic continental shelf waters out to the 2,000 meter isobath.</p> <p>Sources: Waring <i>et al.</i> 1992, 2007, 2014, 2015; Payne and Heinemann 1993; Payne 1984; Jefferson <i>et al.</i> 2009.</p>	

3.4.2.4 Pinnipeds

The following MMPA protected species of pinnipeds occur in the affected environment of the Atlantic herring fishery: Harbor, and grey, harp seals. Pinnipeds are found in the nearshore, coastal waters of the Northwest Atlantic Ocean. They are primarily found throughout the year or seasonally from New Jersey to Maine; however, increasing evidence indicates that some species (e.g., harbor seals) may be extending their range seasonally into waters as far south as Cape Hatteras, North Carolina (35°N) (Waring *et al.* 2014, 2015). To further assist in understanding how the Atlantic herring fishery may overlap in time and space with the occurrence of pinnipeds, a general overview of species occurrence and distribution in the affected environment of the Atlantic herring fishery is provided in the following table (Table 28). For additional information on the biology, status, and range wide distribution of each species of pinniped please refer to Waring *et al.* (2014, 2015).

Table 28 Pinniped Occurrence in the Affected Environment of the Atlantic Herring Fishery

Species	Prevalence

Species	Prevalence
Harbor Seal	<ul style="list-style-type: none"> • Primarily distributed in waters from NJ to ME; however, increasing evidence indicates that their range is extending into waters as far south as Cape Hatteras, NC (35°N). • Year Round: Waters of Maine • September-May: Waters from New England to NJ; potential for some animals to extend range into waters as far south as Cape Hatteras, NC.
Gray Seal	<ul style="list-style-type: none"> • Distributed in waters from NJ to ME. • Year Round: Waters from ME to MA. • September-May: Waters from Rhode Island to NJ.

Sources: Waring *et al.* 2014, 2015.

3.4.2.5 Atlantic Sturgeon DPSs

The marine range of U.S. Atlantic sturgeon extends from Labrador, Canada, to Cape Canaveral, Florida. All five DPSs of Atlantic sturgeon have the potential to be located anywhere in this marine range (ASSRT 2007; Dovel and Berggren 1983; Dadswell *et al.* 1984; Kynard *et al.* 2000; Stein *et al.* 2004a; Dadswell 2006; Laney *et al.* 2007; Dunton *et al.* 2010; Erickson *et al.* 2011; Wirgin *et al.* 2012; Waldman *et al.* 2013; O’Leary *et al.* 2014; Wirgin *et al.* 2015). In fact, several genetic studies, have been conducted to address DPS distribution and composition in marine waters (Wirgin *et al.* 2012; Damon-Randall *et al.* 2013; Waldman *et al.* 2013; O’Leary *et al.* 2014; Wirgin *et al.* 2015). Using samples from Atlantic sturgeon captured from various marine aggregation sites along the Northeast coast, results from these studies showed that these aggregations, regardless of location, were comprised of all 5 DPSs of Atlantic sturgeon; however, each DPS comprised various percentages of the aggregation depending on the area along the coast the aggregation was found and sampled (Wirgin *et al.* 2012; Damon-Randall *et al.* 2013; Waldman *et al.* 2013; O’Leary *et al.* 2014).

Based on fishery- independent and dependent data, as well as data collected from tracking and tagging studies, in the marine environment, Atlantic sturgeon appear to primarily occur inshore of the 50 meter depth contour (Stein *et al.* 2004 a,b; Erickson *et al.* 2011; Dunton *et al.* 2010); however, Atlantic sturgeon are not restricted to these depths, as excursions into deeper continental shelf waters have been documented (Timoshkin 1968; Collins and Smith 1997; Stein *et al.* 2004a,b; Dunton *et al.* 2010; Erickson *et al.* 2011)). Data from fishery-independent surveys and tagging and tracking studies also indicate that Atlantic sturgeon undertake seasonal movements along the coast (Dunton *et al.* 2010; Erickson *et al.* 2011). In general, analysis of fishery-independent survey data indicates a coastwide distribution of Atlantic sturgeon from the spring through the fall, with Atlantic sturgeon being more centrally located (e.g., Long Island to Delaware) during the summer months; and a more southerly (e.g., North Carolina, Virginia)

distribution during the winter (Dunton et al. 2010; Erickson et al. 2011). Although studies such as Erickson et al. (2011) and Dunton et al. (2010) provide some indication that Atlantic sturgeon are undertaking seasonal movements horizontally and vertically along the U.S. eastern coastline, there is no evidence to date that all Atlantic sturgeon make these seasonal movements and therefore, may be present throughout the marine environment throughout the year.

3.4.3 Interactions Between Gear and Protected Resources

The Atlantic herring fishery is prosecuted primarily with midwater trawls, and purse seines. Please note, the Atlantic herring fishery only uses purse seines in the GOM. As a result, the following discussion on purse seines and interaction risks to protected species are only in reference to Atlantic herring purse seine fishery prosecuted in the GOM.

A subset of protected species of fish, marine mammals, and sea turtles (see Table 24) are known to be vulnerable to interactions with midwater and/or purse seines. In the following sections, available information on protected species interactions with these gear types will be provided. Please note, these sections are not a comprehensive review of all fishing gear types known to interact with a given species; emphasis is only being placed on those gear types primarily used to prosecute the Atlantic herring fishery.

3.4.3.1 Marine Mammals

Pursuant to the MMPA, NMFS publishes a List of Fisheries (LOF) annually, classifying U.S. commercial fisheries into one of three categories based on the relative frequency of incidental serious injuries and/or mortalities of marine mammals in each fishery.¹ The categorization in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA such as registration, observer coverage, and take reduction plan requirements. Individuals fishing in Category I or II fisheries must comply with requirements of any applicable take reduction plan.

Categorization of fisheries is based on the following two-tiered, stock-specific approach:

- **Tier 1**- considers the cumulative fishery mortality and serious injury for a particular stock. If the total annual mortality and serious injury rates within a stock resulting from all fisheries are less than or equal to ten percent of the stock's potential biological removal rate (PBR), all fisheries associated with this stock fall into Category III.² -If mortality and serious injury rates are greater than ten percent of PBR, the following Tier 2, analysis occurs.
- **Tier 2** -considers fishery-specific mortality and serious injury for a particular stock. Specifically, this analysis compares fishery-specific annual mortality and serious injury

¹ The most recent LOF was issued August 25, 2014; 79 FR 50589.

² PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.

rates to a stock's PBR to designate the fishery as a Category I, II, or III fishery (see Table 29).

Table 29 Descriptions of the Tier 2 Fishery Classification Categories (50 CFR 229.2)

Category	Level of incidental mortality or serious injury of marine mammals	Annual mortality and serious injury of a stock in a given fishery is...
Category I	frequent	≥50% of the PBR level
Category II	occasional	between 1% and 50% of the PBR level
Category III	remote likelihood, or no known	≤1% of the PBR level

3.4.3.1.1 Large Cetaceans

Midwater Trawl Gear

Based on information provided by Waring et al. (2014), Waring et al. (2015), and NMFS NEFSC FSB (2014), aside from minke whales, there has been no confirmed serious injury or mortality or documented interactions, in general, with large whales and midwater trawls. Minke whales are the only species of large whales that have been observed seriously injured and killed in midwater trawl gear, although these instances are rare. Since 2009, there has also been only two observed minke whale incidentally taken in midwater trawl gear; this incidence was observed in 2009 and 2013 (Waring et al. 2014, 2015; http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html). Based on this information, midwater trawl gear is not expected to pose a significant serious injury or mortality risk to any large whale species.

Purse Seine (GOM Atlantic herring fishery)

Since 2008, three (3) humpback whales and one (1) fin/sei whale have been documented as interacting with purse seines, specifically those operating in the GOM targeting Atlantic herring (see: http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html). All interactions; however, resulted in the animals being released from the nets unharmed (http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; Waring et al. 2015). Based on this information, although interactions are possible with large whales, we do not expect purse seines to pose a serious injury or mortality risk to these species. This conclusion is further supported by the fact that the LOF has identified the Gulf of Maine Atlantic herring purse seine fishery as a Category III fishery, that is, a fishery that causes a remote to no likelihood of causing serious injury or mortality to marine mammals (see Table 29).

3.4.3.1.2 Small Cetaceans and Pinnipeds

Midwater Trawl Gear

Midwater trawl fisheries (Northeast or Mid-Atlantic) are considered Category II fisheries under the LOF. Small cetacean and pinniped species are known to be seriously injured or killed by this gear type, and in fact, based on observer data, bycatch of small cetaceans and pinnipeds have been attributed to the Atlantic herring fishery (see:

http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; Waring et al. 2014, 2015). Table 30 provides a list of small cetacean and pinniped species observed seriously injured and/or killed by midwater trawl Category II fisheries from 2007-2012 (see Waring et al. 2014, 2015).

Table 30 Cetacean and Pinniped Species Observed Seriously Injured and/or Killed by Category II Midwater Fisheries in the Affected Environment of the Atlantic Herring Fishery from 2007-2012

Category II	
Fishery/Gear Type	Species Observed Injured/Killed
Mid-Atlantic Midwater Trawl (Including Pair Trawl)	Risso's dolphin
	White-sided dolphin (*)
	Short-beaked common dolphin
	Long and short-finned pilot whales
	Gray seal
	Harbor seal
Northeast Midwater Trawl (Including Pair Trawl)	White-sided dolphin
	Short-beaked common dolphin
	Long and short-finned pilot whales (*)
	Gray seal
	Harbor seal
<i>Sources: Waring et al. 2014, 2015; August 25, 2014, List of Fisheries (79 FR 50589).</i>	

A (*) indicates those species driving the fisheries classification.

In 2006, based on observed midwater trawl interactions with long-finned pilot whales, short-finned pilot whales, common dolphins, and white sided dolphins, the Atlantic Trawl Gear Take Reduction Team (ATGTRT) was convened to address the incidental mortality and serious injury of these species incidental to bottom and midwater trawl fisheries operating in both the Northeast and Mid-Atlantic regions. Because none of the marine mammal stocks of concern to the ATGTRT are classified as a “strategic stock,” nor do they currently interact with a Category I fishery, it was determined at the time that development of a take reduction plan was not necessary.

In lieu of a take reduction plan, the ATGTRT agreed to develop an Atlantic Trawl Gear Take Reduction Strategy (ATGTRS). The ATGTRS identifies informational and research tasks, as well as education and outreach needs the ATGTRT believes are necessary, to provide the basis for decreasing mortalities and serious injuries of marine mammals to insignificant levels approaching zero mortality and serious injury rates. The ATGTRS also identifies several potential voluntary measures that can be adopted by certain trawl fishing sectors to potentially reduce the incidental capture of marine mammals (e.g., reducing the numbers of turns made by the fishing vessel and tow times while fishing at night; increasing radio communications between vessels about the presence and/or incidental capture of a marine mammal). For additional details on the ATGTRS, please visit:

<http://www.greateratlantic.fisheries.noaa.gov/Protected/mmp/atgtrp/>

Purse Seine (GOM Atlantic herring fishery)

There have been no observed small cetacean interactions with purse seines operating in the GOM. As a result, this gear type is not expected to pose an interaction risk with small cetacean species. However, purse seines, specifically those operating in the GOM targeting Atlantic herring, are known to interact with pinniped species (i.e., gray and harbor seals; see http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; Waring et al. 2014, 2015). However, most observed interactions to date have resulted in the release of the animals unharmed (Table 31); only two unknown seal species have been observed seriously injured and killed in the GOM Atlantic herring purse seine fishery (see http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; Waring et al. 2014, 2015). As a result, although interactions are possible with seals, we do not expect purse seines to pose a significant serious injury or mortality risk to these species. This conclusion is further supported by the fact that the LOF has identified the Gulf of Maine Atlantic herring purse seine fishery as a Category III fishery, that is, a fishery that causes a remote to no likelihood of causing serious injury or mortality to marine mammals (see Table 29).

Table 31 2005-2014 Observed Gray and Harbor Seal Interactions with the GOM Atlantic Herring Purse Seine Fishery

Seal Species	Number of Observed Interactions	Released Alive
Unknown	13	11-Yes/ 2-No
Harbor Seal	10	Yes
Gray Seal	101	Yes

3.4.3.2 Sea Turtles

Midwater Trawl

NEFOP and ASM observer data from 1989-2014 have recorded five (5) leatherback sea turtle interactions with midwater trawl gear; the primary species landed during these interactions was tuna (see http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; NMFS NEFSC FSB 2015). Based on the best available information, although interactions with this gear type are possible, the risk of a sea turtle interacting with midwater trawl gear targeting Atlantic herring is expected to be low. Further, with no observed sea turtle interactions attributed to the Atlantic herring midwater trawl fishery since 1989, we do not expect midwater trawls targeting Atlantic herring to pose a significant serious injury or mortality risk to any sea turtle species.

Purse Seine (GOM Atlantic herring fishery)

NEFOP and ASM observer data from 1989-2014 have recorded no sea turtle interactions with purse seine gear where the primary species landed during these interactions was Atlantic herring (see http://www.nefsc.noaa.gov/fsb/take_reports/nefop.html; NMFS NEFSC FSB 2015). However, purse seine interactions with sea turtles have been observed in other fisheries targeting other fish species in the Mid-Atlantic. Based on the best available information, although interactions with this gear type are possible, the risk of a sea turtle interacting with purse seine gear targeting Atlantic herring in the GOM is expected to be low. Further, with no observed sea

turtle interactions attributed to the Atlantic herring GOM purse seine fishery since 1989, we do not expect purse seines targeting Atlantic herring to pose a significant serious injury or mortality risk to these sea turtle species.

3.4.3.3 Atlantic Sturgeon

Midwater Trawl

To date, there have been no observed/documented interactions with Atlantic sturgeon and midwater trawl gear (NMFS NEFSC FSB 2015). As a result, this gear type is not expected to pose an interaction risk to the species.

Purse Seine (GOM Atlantic herring fishery)

NEFOP and ASM observer data from 1989-2014 have recorded two (2) Atlantic sturgeon interactions with purse seine gear targeting Atlantic herring in the GOM (NEFSC FSB 2015). These interactions were recorded in 2004 and 2005, prior to the listing of Atlantic sturgeon under the ESA. While capture of sturgeon in this gear type is possible, interactions have been extremely rare (only two observed over the last 25 years) and therefore, the risk of an interaction is likely low.

3.5 FISHERY-RELATED BUSINESSES AND COMMUNITIES

The U.S. Atlantic herring fishery occurs over the Mid-Atlantic shelf region from Cape Hatteras to Maine, including an active fishery in the inshore Gulf of Maine and seasonally on Georges Bank. The Atlantic herring resource is managed as one stock complex, but this stock is thought to be comprised of inshore and offshore components that segregate during spawning. In recognition of the spatial structure of the herring resource, the Atlantic herring annual catch limit (ACL) is divided into sub-ACLs and assigned to four herring management areas. Area 1 is the Gulf of Maine (GOM) divided into an inshore (Area 1A) and offshore section (Area 1B); Area 2 is located in the coastal waters between MA and NC (generally referred to as southern New England/Mid-Atlantic), and Area 3 is on Georges Bank (GB) (see Figure 1 on p. 3 of this document).

The Atlantic herring fishery is generally prosecuted south of New England in Area 2 during the winter (January-April), and oftentimes as part of the directed mackerel fishery. There is overlap between the herring and mackerel fisheries in Area 2 and in Area 3 during the winter months, although catches in Area 3 tend to be relatively low. The herring summer fishery (May-August) is generally prosecuted throughout the GOM in Areas 1A, 1B and in Area 3 (GB) as fish are available. Restrictions in Area 1A have pushed the fishery in the inshore GOM to later months (late summer). The midwater trawl (single and paired) fleet is restricted from fishing in Area 1A in the months of January through September because of the Area 1A sub-ACL split (0% January-May) and the purse seine-fixed gear only area (all of Area 1A) that is effective June-September. A sub-ACL split for Area 1B (0% January – April, 100% May – December) is effective for all vessels during the 2014 and 2015 fishing years.

Fall and winter fishing (September-December) tends to be more variable and dependent on fish availability; the Area 1A sub-ACL is always fully utilized, and the inshore Gulf of Maine fishery usually closes sometime around November. As the 1A and 1B quotas are taken, larger vessels become increasingly dependent on offshore fishing opportunities (Georges Bank, Area 3) when fish may be available.

Atlantic herring is also caught in state waters and in the New Brunswick weir fishery. Section 2.2.1 contains more information about those fisheries.

3.5.1 Atlantic Herring Catch

The Atlantic herring stockwide ACL and management area sub-ACLs are tracked/ monitored based on the *total catch – landings and discards*, which is provided and required by herring permitted vessels through the vessel monitoring system (VMS) catch reports and vessel trip reports (VTRs) as well as through Federal/state dealer data. Atlantic herring harvesters are required to report discards in addition to landed catch through these independent reporting methods.

NMFS' catch estimation methods for the Atlantic herring fishery are described in detail in both Framework Adjustment 2 and Framework Adjustment 3 to the Atlantic Herring FMP (see Section 3.6.1 of Framework 3, NEFMC 2014).

Table 32 summarizes recent Atlantic herring catch estimates by year and management area from 2004-2014. The following bullets describe how these estimates were derived:

- 2004-2006 Atlantic herring catch estimates are provided from quota management implemented by NMFS through the Atlantic Herring FMP and are based on interactive voice reporting (IVR) data from the call-in system used to monitor TACs. Reported herring discards are included in the totals.
- 2007-2009 Atlantic herring catch estimates are based on IVR data supplemented with dealer data. Reported herring discards are included in the totals.
- 2010-2014 Atlantic herring catch estimates are based on a comprehensive methodology developed by NMFS in response to Amendment 4 provisions and the need to better monitor sub-ACLs. Catch estimates are based on landings data obtained from dealer reports (Federal and State), supplemented with VTRs (Federal and State of Maine) with the addition of discard data from extrapolated observer data.

**Catch of Atlantic herring by State-only permitted vessels (fishing in State waters) is tracked by the States and ASMFC; recent information regarding state waters Atlantic herring catch is summarized in Section 2.2.1 of this document (p. 15).*

Table 32 Atlantic Herring Catch by Year and Management Area, 2004-2014

YEAR	AREA	SUB-ACL (MT)	CATCH (MT)	% UTILIZED
2004	1A	60,000	60,095	100%
2004	1B	10,000	9,044	90%
2004	2	50,000	12,992	26%
2004	3	60,000	11,074	18%
2005	1A	60,000	61,102	102%
2005	1B	10,000	7,873	79%
2005	2	30,000	14,203	47%
2005	3	50,000	12,938	26%
2006	1A	60,000	59,989	100%
2006	1B	10,000	13,010	130%
2006	2	30,000	21,270	71%
2006	3	50,000	4,445	9%
2007	1A	50,000	49,992	100%
2007	1B	10,000	7,323	73%
2007	2	30,000	17,268	58%
2007	3	55,000	11,236	20%
2008	1A	43,650	42,257	97%
2008	1B	9,700	8,671	89%
2008	2	30,000	20,881	70%
2008	3	60,000	11,431	19%
2009	1A	43,650	44,088	101%
2009	1B	9,700	1,799	19%
2009	2	30,000	28,032	93%
2009	3	60,000	30,024	50%
2010	1A	26,546	28,424	107%
2010	1B	4,362	6,001	138%
2010	2	22,146	20,831	94%
2010	3	38,146	17,596	46%
2011	1A	29,251	30,676	105%
2011	1B	4,362	3,530	81%
2011	2	22,146	15,001	68%
2011	3	38,146	37,038	97%
2012	1A	27,668	24,302	88%
2012	1B	2,723	4,307	158%
2012	2	22,146	22,482	102%
2012	3	38,146	39,471	103%
2013	1A	29,775	29,820	100%
2013	1B	4,600	2,458	53%
2013	2	30,000	27,569	92%
2013	3	42,000	37,833	90%
2014*	1A	33,031	33,428	101%
2014*	1B	2,878	4,733	164%
2014*	2	28,764	19,624	68%
2014*	3	39,415	37,252	95%

Source: NMFS. *2014 totals are preliminary.
 Note: shaded rows indicate overages.

Table 33 summarizes total Atlantic herring catch as a percentage of the total available catch in each year from 2003-2014 based on NMFS catch estimation methods. Atlantic herring catch has been somewhat consistent over the time period (and in previous years), averaging about 91,925 mt from 2003-2014, with the highest catch of the time series observed in 2009 (103,943 mt) and lowest in 2010 (72,852 mt). However, the quota allocated to the fishery (stockwide ACL/OY) has decreased 50% over the twelve-year period. Consequently, and without increasing fishing effort, the Atlantic herring fishery has become more fully utilized in recent years, and the fishery utilized 100% of the total Atlantic herring ACL for the first time in 2012. The 2013-2015 Atlantic herring fishery specifications increased the stockwide Atlantic herring ACL by more than 15,000 mt from the 2010-2012 specifications; an additional 5,000 mt was caught under the higher quota in 2013 and 2014, and overall, the fishery utilized about 90% of the stockwide Atlantic herring ACL.

Table 33 Total Annual Atlantic Herring Catch 2003-2014

YEAR	TOTAL HERRING CATCH (MT)	TOTAL QUOTA ALLOCATED (MT)	PERCENT OF QUOTA UTILIZED
2003	101,607	180,000	57%
2004	93,205	180,000	52%
2005	96,116	150,000	64%
2006	98,714	150,000	66%
2007	85,819	145,000	59%
2008	83,240	143,350	58%
2009	103,943	143,350	73%
2010	72,852	91,200	80%
2011	86,245	93,905	92%
2012	90,561	90,683	100%
2013	95,764	106,375	90%
2014*	95,037	104,088	91%

Source: NMFS. *2014 totals are preliminary.

Table 34 provides updated/adjusted Atlantic herring sub-ACLs and the total ACL for the 2015 fishing year relative to 2015 Atlantic herring catch year to date (YTD). **LORI UPDATE**

Table 34 2015 Atlantic Herring Sub-ACLs (Adjusted) and Catch YTD (mt)

AREA	2015 CATCH (MT)	2015 SUB-ACL* (MT)	% SUB-ACL CAUGHT
1A			
1B			
2			
3			
TOTAL			

Source: NMFS Quota Monitoring Report through DATE.

**Adjustments to initial allocations include overage deductions/carryovers from 2013 and deductions for the 2015 research set-asides.*

3.5.2 Monthly Quota Utilization

The temporal and spatial variability of the Atlantic herring fishery may be understood by examining the quota utilization in each management area on a monthly basis over the course of the fishing year. In general, the fishery concentrates in Area 2 during the first few months of the year, then effort shifts towards Area 1A through the summer and fall, as well as into Area 3 during the fall and early winter. Area 1B is used throughout the year as fish and markets are available.

LORI - ADD FROM QUOTA MONITORING REPORT YTD

3.5.3 Permit Categories

Limited-access Atlantic herring vessel permit categories include:

Category A – limited access in all management areas;

Category B – limited access in Areas 2 and 3 only;

Category C – limited access in all management areas, with a 25 mt (55,000 lb) Atlantic herring catch limit per trip and one landing per calendar day.

Open-access Atlantic herring vessel permit categories include:

Category D – open access in all management areas, with a 3 mt (6,600 lb) Atlantic herring catch limit per trip and one landing per calendar day;

Category E – open access in Areas 2 and 3 only, with a 9 mt (20,000 lb) Atlantic herring catch limit per trip and landing per calendar day.

The Category E permit was established through Amendment 5 and implemented in March 2014. Vessels that have not been issued a limited access herring permit, but that have been issued a limited access mackerel permit, are eligible for this permit.

3.5.4 Atlantic Herring Vessels

This section provides information regarding the vessels participating in the Atlantic herring fishery from 2008-present. Nominal revenues for “herring trips” are presented. Here, a herring trip is defined liberally as any trip in which at least one pound of Atlantic herring is retained.

Active Vessels in the Atlantic Herring Fishery

Since 2008, the number of vessels with either a limited access or an open access Atlantic herring permit has decreased annually (Table 35 and Table 36). This includes a decrease in the limited access directed fishery vessels (Categories A and B), which comprise the majority of the herring fishery, with 43 permitted in 2014. In 2014, 44% of the limited access vessels were active (defined broadly as landing at least one pound of Atlantic herring during the fishing year). Many of the Category A, B, and C vessels are also active in the Atlantic mackerel fishery (managed by the MAFMC). Although there have been far fewer active limited access versus open access vessels, the limited access fishery comprises 99% of the fishery revenue.

Comment [RGF1]: No data in this document to support this.

For the open access vessels, just 3-5% of the Category D permits have been active since 2009 (Table 35 and Table 36). The Category E permit was implemented during permit year 2013 (May-April). In 2014, there were just over 50 E permits issued, mostly to vessels with a D permit as well. About 11% of the E permits were active that year.

Table 35 Fishing Vessels with Federal Atlantic Herring Permits, 2008-2011

Permit Category	2008	2009	2010	2011
A	44 (64%)	44 (66%)	43 (63%)	42 (64%)
B, C	5 (40%)	4 (75%)	4 (75%)	4 (50%)
C	53 (13%)	51 (25%)	51 (33%)	45 (20%)
Total Limited Access	102 (34%)	99 (45%)	98 (48%)	91 (52%)
D	2,390 (3%)	2,373 (3%)	2,231 (5%)	2,038 (4%)

Source: NMFS Permit database (<http://www.nero.noaa.gov/permits/permit.html>) and VTR database.

Note: In parentheses are the percent active vessels, defined as having landed at least one pound of Atlantic herring. This includes all pair trawl vessels, whose partner vessel landed the catch. Data as of August 2015.

Table 36 Fishing Vessels with Federal Atlantic Herring Permits, 2012-2014

Permit Category		2012	2013	2014
Limited Access	A	38 (61%)	40 (63%)	39 (67%)
	B, C	4 (50%)	4 (75%)	4 (50%)
	C	46 (24%)	44 (34%)	42 (21%)
	Total	88 (41%)	88 (42%)	85 (44%)
Open Access	D	2,026 (4%)	1,909 (4%)	1,788 (3%)
	D,E	n/a	n/a	53 (11%)
	E	n/a	n/a	1*
	Total	2,026 (4%)	1,909 (4%)	1,842 (3%)

Source: NMFS Permit database (<http://www.nero.noaa.gov/permits/permit.html>) and VTR database.

Note: In parentheses are the percent active vessels, defined as having landed at least one pound of Atlantic herring. This includes all pair trawl vessels, whose partner vessel landed the catch. Permit and landings data are as of August 2015 and do not include 2015 landings.

n/a = The Category E permits could first be issued at the end of 2013, but could not become active until 2014.

*Data confidentiality restrictions preclude reporting the percent active.

Fishing Gear

Atlantic herring vessels primarily use purse seines, single midwater trawls or midwater pair trawls for fishing gear, with the midwater pair trawl fleet harvesting the majority of landings since 2008 (Table 37 and Table 38). 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 their overall landings in recent years. The purse seine fleet fishes primarily in Area 1A and to a lesser extent, Areas 1B and Area 2, though in recent years, purse seines have not been active in Area 2. The single midwater trawl has been most active in Area 3. Small mesh bottom trawl vessels represented 5% of herring landings since 2008; other gear types (e.g., pots, traps, shrimp trawls, hand lines) comprise less than 0.5% of the fishery.

Table 37 Atlantic Herring Landings by Fishing Gear Type and Area, 2008-2011

Gear Type	Area 1A (mt)	Area 1B (mt)	Area 2 (mt)	Area 3 (mt)	Total
Bottom Otter Trawl	463 (0.3%)	1 (0%)	14,288 (16%)	117 (0.1%)	14,869 (4%)
Single Midwater Trawl	6,340 (5%)	3,246 (17%)	4,886 (5%)	12,830 (14%)	27,302 (8%)
Midwater Pair Trawl	56,769 (43%)	12,612 (64%)	68,336 (76%)	78,518 (86%)	216,235 (65%)
Purse Seine	69,074 (52%)	3,696 (19%)	2,221 (2%)	0 (0%)	74,991 (22%)
Other	817 (0.6%)	0 (0%)	17 (0%)	1 (0%)	834 (0.2%)
Total	133,463 (100%)	19,555 (100%)	89,748 (100%)	91,466 (100%)	334,231 (100%)

Source: VTR database. September 2012.

Note: Data include all vessels that landed one pound or more of Atlantic herring.

Table 38 Atlantic Herring Landings by Fishing Gear Type and Area, 2012-2014

Gear Type	Area 1A (mt)	Area 1B (mt)	Area 2 (mt)	Area 3 (mt)	Total
Bottom Otter Trawl	534 (1%)	16,967 (64%)	0 (0%)	267 (0%)	17,768 (7%)
Single and Pair Midwater Trawl	14,677 (18%)	9,068 (34%)	44,746 (100%)	110,227 (100%)	178,718 (67%)
Purse Seine	68,409 (82%)	310 (1%)	0 (0%)	0 (0%)	68,719 (26%)
Other	3 (0%)	0 (0%)	3 (0%)	0 (0%)	6 (0%)
Total	83,623 (100%)	26,345 (100%)	44,749 (100%)	110,494 (100%)	265,211 (100%)

Source: VTR database. August 2015.

Note: Data include all vessels that landed one pound or more of Atlantic herring. Single and pair midwater trawl data are combined due to data confidentiality restrictions.

Revenue

Table 39 and Table 40 provide percentage revenues from Atlantic herring by permit category since 2008 for trips landing Atlantic herring. Category A vessels catching Atlantic herring in Areas 1A, 1B, and 3 are catching herring almost exclusively. However, when these vessels catch herring in Area 2, a substantial portion of revenues (nearly X%) are attributable to other species. Category C and D vessels have derived relatively small amounts of revenue from herring trips since 2008. The remainder of the revenue for these vessels is derived from other species (e.g., whiting).

Table 39 Percentage of Revenue from Atlantic Herring by Permit Category for Trips Landing Atlantic Herring, 2008-2011

	Category A	Category B/C	Category C	Category D
Area 1A	99.9%		55.1%	32.8%
Area 1B	99.7%			
Area 2	61.6%	94.8%	6.7%	2.5%
Area 3	96.8%			1.2%
Total	86.4%	94.8%	30.3%	11.2%

Table 40 Percentage of Revenue from Atlantic Herring by Permit Category for Trips Landing Atlantic Herring, 2012-2014

	Category A	Category B/C	Category C	Category D/E
Area 1A				
Area 1B				
Area 2				
Area 3				
Total				

Comment [RGF2]: Need data from MYL

3.5.5 Atlantic Herring Dealers

The number of Atlantic herring dealers has remained fairly constant since 2012 at just over 280. Table 41 summarizes all issued Atlantic herring permits by state and permit type for the past few years. Dealer permits can be issued and cancelled throughout the year, so at any given time, the number of active dealer permits could fluctuate from the totals reported. Most of the Atlantic herring dealers are based in Maine, Rhode Island, New York, and New Jersey.

Table 41 Issued Atlantic Herring Dealer Permits, 2012-2015

	2012	2013	2014	2015
United States				
ME	76	83	84	85
NH	8	7	7	8
MA	57	61	60	62
RI	35	32	27	26
CT	2	2	3	3
VT	1	1	1	1
NY	52	50	50	48
NJ	26	26	26	28 (1)*
PA	2	2	2	2
DE	1		1	1
MD	3	3	3	2
VA	7	7	8	8
NC	9	8	8	8
GA	1	1		
Canada				
NB	1	1	1	1
NS	1	3	3	3
Total				
	282	287	284	286(1)

Source: GARFO permit database as of 7/31/2015.

Notes: 2015 permit counts are preliminary due to ongoing issuance. Individual entities may possess more than one permit type, i.e. total permits issued not equal to total number of dealers.

* One at-sea dealer permit has been issued in 2015.

3.5.6 Atlantic Herring Prices, Use as Bait, and Substitute Goods

Between 2008-2014, annual landings of Atlantic herring ranged from 72,852-103,943 mt (Table 33) while nominal prices generally ranged from about \$160-350 per mt (Figure 13 and Figure 14). Overall, herring prices have been increasing over time with a peak in 2013. Atlantic herring caught in the Northeast U.S. is eaten by consumers worldwide and used as lobster bait. There are likely to be good substitutes for both uses; therefore, prices are likely insensitive to quantity changes.

In general, prices will decrease when quantity supplied increases, and prices will increase when quantity supplied decreases. The extent to which prices are responsive to changes in quantities supplied (and therefore by changes in ACLs and sub-ACLs) depends on the availability of good substitutes. If good substitutes are available, then prices will not be sensitive to changes in quantity supplied. However, if good substitutes are not available, then prices will be quite sensitive to changes in quantity supplied.

Limited amounts of Atlantic herring are consumed as food domestically. In the world market, there is likely one substitute: European herring. U.S. production of Atlantic herring is quite small relative to the worldwide production. Since total U.S. landings of Atlantic herring have been near 100,000 mt annually, while total worldwide landings of Atlantic herring are near 2,000,000 mt. Therefore, U.S. producers of herring as human food are likely to be price takers on the world market. This means that moderate changes in the quantity of herring produced for food are unlikely to have an effect on price of herring.

Comment [RGF3]: Table 19 = catch not landings. Are we assuming catch = landings? If so, do we have a note somewhere?

Figure 13 Average Nominal Price per Metric Ton of Atlantic Herring, 2008-2012

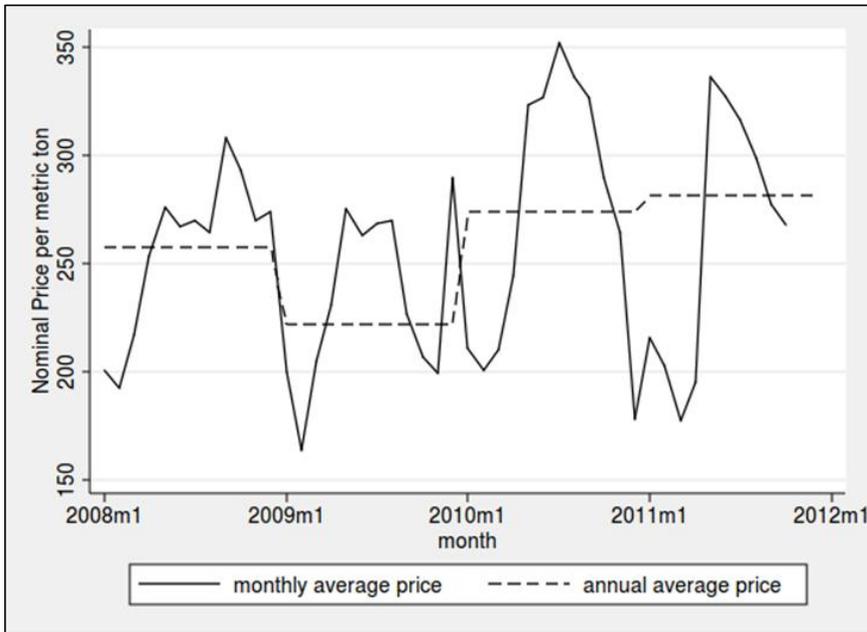
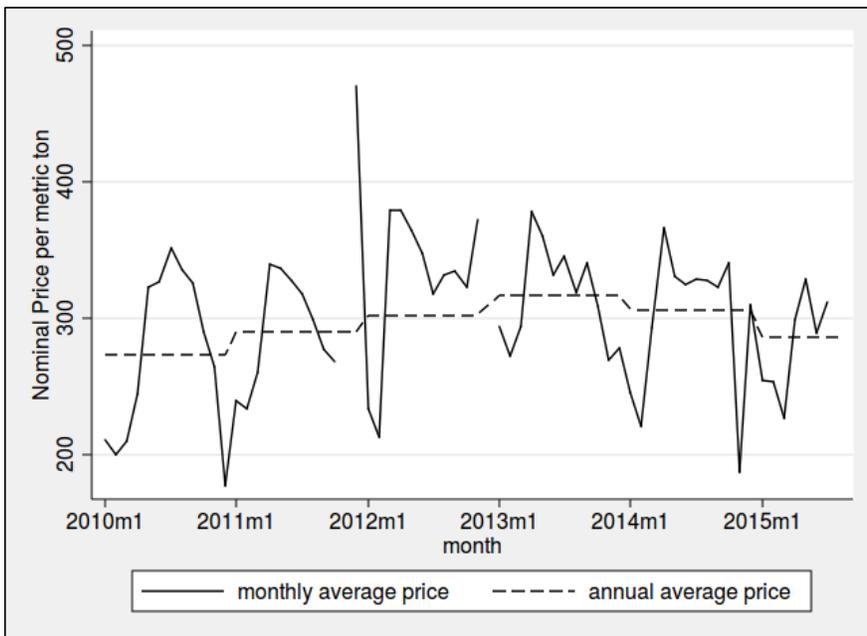


Figure 14 Average Nominal Price per Metric Ton of Atlantic Herring, 2010-2015



In the bait market, Atlantic menhaden, managed by the Atlantic States Marine Fisheries Commission, is one substitute for Atlantic herring. Use of menhaden for bait has increased in importance relative to fish meal and oil. Between 2001 and 2012, the percent of total menhaden landings that were used for bait rose from 13% to a high of 28% in 2012 (63,540 mt). In 2013, bait harvest composed approximately 22% of the total menhaden harvest. Menhaden landings for bait have recently dipped due to reductions in allowable catch; landings in 2013 were 35,043 mt, 34% below the average landings during 2010-2012 (52,900 mt) (ASMFC 2015). During 2008-2011, *ex-vessel* menhaden prices ranged from \$139-\$169 per mt. This is about 33-50% lower than *ex-vessel* herring prices. If the quantity of Atlantic herring supplied into the bait market declines dramatically, more menhaden may be used as bait, moderating the increases in herring prices.

Menhaden is primarily used to produce fish meal and oil. However, the Atlantic Herring FMP prohibits use of herring for fish meal, so herring is not a substitute in the production of those goods.

Atlantic herring is used as bait for many fisheries, such as lobster, tuna, and various recreational fisheries. A more detailed description of the bait sector of the industry is provided in Amendments 1 and 5 to the Herring FMP. According to NMFS dealer data, 73.8% of the value of Atlantic herring landed between 2008 and 2011 came from the bait market; the remainder was sold for human consumption (25.8%) and for other purposes (0.4%). Landings of herring used for bait came primarily from ports in Maine (58.2%) and Massachusetts (39.2%).

Comment [RGF4]: Need to update still

The lobster industry, particularly in Maine, is dependent on herring as a bait source, though it depends on price and availability. A 2008 survey of 6,832 lobster license holders in Maine revealed that 58% of respondents answered “very much” to the question “Could the supply or price of herring for bait impact your decisions on how to fish?” (MEDMR, 2008). For lobstermen surveyed from Maine, New Hampshire and Massachusetts who harvest in Lobster Conservation Management Area A (inshore Gulf of Maine), herring is the predominant bait source (Table 42).

Table 42 Bait Usage in the Inshore Gulf of Maine Lobster Fishery

	ME Zone A	ME Zone B	ME Zone C	ME Zone D	ME Zone E	ME Zone F	ME Zone G	NH	MA
Herring	90%	86%	73%	73%	84%	37%	75%	60%	76%
Pogies	3%	2%	0%	15%	14%	39%	11%	4%	13%
Redfish	1%	8%	12%	4%	1%	19%	8%	0%	0%
Racks	1%	2%	1%	2%	0%	1%	1%	26%	6%
Alewives	1%	1%	0%	1%	0%	0%	0%	0%	0%
Other	4%	2%	13%	5%	0%	4%	4%	9%	4%

Source: Dayton et al. (2014)

Data from New Hampshire port sampling reveals that New Hampshire vessels may be less dependent on herring as a bait source than the aforementioned survey indicates. Table 43 presents the use of herring as bait in NH from 2005 to 2011 (due to funding shortages, these data are no longer collected). Atlantic herring is a small percentage of the bait used by these vessels, ranging between 1.8% in 2010 and 4.6% in 2005. In terms of herring per trap just in Lobster Management Area (LMA) 1, the most used was in 2005 and the least in 2010. This correlates with overall high and low points in the percent of herring bait used. Historically, Atlantic herring is used for bait by smaller inshore vessels more than larger offshore vessels, because it is typically less expensive; in addition, alternative bait options like skates tend to be preferred for longer soaks in offshore waters.

Note that the offshore LMA Area 3 vessels are not included in the herring per trap calculation because, at present, there is only one vessel in this category, which tends to utilize redfish and skates as primary bait sources. This is because redfish and skates do not degrade as rapidly as herring in deeper colder water. Furthermore, the LMA 3 vessel is not included to avoid skewing the data, however marginally, due to the diversity in bait types and the sheer volume of bait that is utilized throughout a fishing trip.

Table 43 Atlantic Herring Use as for Lobster Bait in New Hampshire

Year	Herring Bait (lbs)	Other Bait (lbs)	Total Bait (lbs)	% Herring of all Bait	# Types of Bait	Herring Per Trap LMA 1* (lbs)
2005	8,200	169,725	177,925	4.6%	11	0.33
2006	9,700	293,125	302,825	3.2%	13	0.20
2007	8,300	226,350	234,650	3.5%	10	0.18
2008	7,658	247,000	254,658	3.0%	12	0.16
2009	8,825	189,690	198,515	4.4%	11	0.25
2010	3,350	181,728	185,078	1.8%	11	0.14
2011	6,100	249,900	256,000	2.4%	9	0.21

Source: NH Fish & Game Department

3.5.7 Atlantic Herring Fishing Communities

In the 1996 amendments to the Magnuson Stevens Act, Congress added National Standards directly related to social and economic factors for consideration by Councils and NMFS. National Standard 8 (NS8) states that:

Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

NS 8 requires the consideration of impacts on fishing communities. Section 316 of MSA defines a fishing community as:

“A community which is substantially dependent on or substantially engaged in the harvesting or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.”

To gain a better perspective on the nature of the Atlantic herring fishery and the character of the affected human environment, a broader interpretation of fishing community has been applied to include almost all communities with a substantial involvement in or dependence on the Atlantic herring fishery. In terms of National Standard 8 (NS 8), some of the communities identified in this section may not fit the strict interpretation of the criteria for substantial dependence on fishing. The fishing communities that meet the legal definition (as promulgated through NS 8) are likely to be considered a subset of the broader group of communities of interest that are engaged in the herring fishery and identified in this document.

Because Atlantic herring is widely used as bait for the lobster fishery, especially in Maine, it is not practical to identify every community with substantial involvement in the lobster fishery (and consequently some level of dependence on the herring fishery) for assessment in this document. Instead, some of the communities of interest were selected, in part, because of their involvement in or dependence on the lobster fishery; assessment of the impacts of the Amendment 1 measures on these communities should provide enough context to understand the potential impacts on any community with substantial involvement in the lobster fishery. Parallels can be drawn between the communities that are identified in this section and other similar communities engaged in the lobster fishery.

NS 8 requires the Council to consider the importance of fishery resources to affected communities and provide those communities with continuing access to fishery resources, but it does not allow the Council to compromise the conservation objectives of the management measures. “Sustained participation” is interpreted as continued access to the fishery within the constraints of the condition of the resource.

Communities of Interest

The following five criteria were used in Amendments 1 and 5 to the Herring FMP to define *Communities of Interest* for the Atlantic herring fishery, which must meet at least one criterion:

1. Atlantic herring landings of at least 10M pounds (4,536 mt) per year from 1997-2008, or anticipated landings above this level based on interviews and documented fishery-related developments.
2. Infrastructure dependent in part or whole on Atlantic herring.
3. Dependence on herring as lobster and/or tuna bait.
4. Geographic isolation in combination with some level of dependence on the Atlantic herring fishery.
5. Utilization of Atlantic herring for value-added production.

Based on the above criteria, there are 11 *Communities of Interest* for the Atlantic herring fishery, identified below and further evaluated in Amendment 5 to the Atlantic Herring FMP (Section 4.5.3). Community profiles of each are available from the NEFSC Social Sciences Branch website (Clay et al. 2007). Since Amendment 1, this list has changed slightly with changes in harvesting and processing sectors.

1. Portland, Maine
2. Rockland, Maine
3. Stonington/Deer Isle, Maine
4. Vinalhaven, Maine
5. Lubec/Eastport, Maine
6. Sebasco Estates, Maine
7. NH Seacoast (Newington, Portsmouth, Hampton/Seabrook)
8. Gloucester, Massachusetts
9. New Bedford, Massachusetts
10. Southern Rhode Island (Point Judith, Newport, North Kingstown)
11. Cape May, New Jersey

Home Ports

Of the Atlantic herring *Communities of Interest*, Gloucester and New Bedford, Southern RI, and Cape May are homeports with largest concentrations of vessels that have Atlantic Herring limited access directed fishery permits, Categories A and B (Table 44). Mid-Coast ME, Portland and Seacoast NH also are home to a few of these permit holders. Beyond the communities of interest, a few Category A and B permit holders have homeports in Bath, Cundys Harbor, Hampden, and Matinicus ME; Boston and Woods Hole MA; and Wanchese NC. For the most part, these vessels use a community of interest as a landing port (NMFS 2012). The distribution

of important homeports for Atlantic Herring vessels is largely unchanged between 2011 and 2015 (Table 44), particularly for the limited access vessels.

Table 44 Distribution of Herring Permit Holders in 2011 and 2015 which have an Atlantic Herring Community of Interest as a Homeport

Homeport		Atlantic Herring Permit Category					
		Limited Access (A, B, C)		Open Access (D, E)		Total	
		2011	2015	2011	2015	2011	2015
ME	Portland	3	3	129	30	132	33
	Rockland	1	1	2	2	3	3
	Stonington/Deer Isle	1	0	0	2	1	2
	Vinalhaven	0	0	2	2	2	2
	Lubec/Eastport	0	0	2	1	2	2
	Sebasco Estates	0	0	3	1	3	2
	Maine, other	11	7	196	146	207	153
NH	Seacoast	6	5	96	93	102	98
MA	Gloucester	7	8	174	120	181	128
	New Bedford	9	8	201	178	210	186
	Massachusetts, other	9	8	377	324	386	332
RI		15	14	117	104	132	128
NJ	Cape May	12	13	93	83	105	96
	New Jersey, other	0	0	200	177	200	177
Other		12	12	494	388	506	400

Source: NMFS permit database. (<http://www.nero.noaa.gov/permits/permit.html>). 2011 data accessed September 2012. 2015 data accessed July 2015.

Landing Ports

Atlantic herring harvested from Areas 1A and 1B are landed in fishing communities in Maine, New Hampshire, and Massachusetts, whereas herring from Areas 2 and 3 are landed in a wider range of ports (Table 45). Communities in Rhode Island and New Jersey fish in Area 2 for herring almost exclusively. Portland, Rockland, Gloucester, and New Bedford are ports with the most herring landings in recent years. Within New Jersey, Cape May is the most active landing port.

Table 45 Landing Port Distribution of Herring Landings from Fishing Areas (2008-2011)

Comment [RGF5]: Need data from MYL

Landing Port		Area 1A (mt)	Area 1B (mt)	Area 2 (mt)	Area 3 (mt)
Maine	Portland	23%	22%	1%	23%
	Rockland	26%	15%	1%	10%
	Stonington/Deer Isle	8%	12%	0.5%	0%
	Vinalhaven	2%	5%	0%	2%
	Lubec/Eastport	0%	0%	0%	0%
	Sebasco Estates	0%	0%	0%	0%
	Maine, other	6%	0.3%	0.8%	4%
New Hampshire	Seacoast	3%	0.9%	0.4%	1%
Massachusetts	Gloucester	23%	42%	17%	45%
	New Bedford	8%	2%	45%	16%
	Massachusetts, other	1%	0.1%	4%	0%
Rhode Island	Southern	0%	0%	17%	0.1%
New Jersey	Cape May	0%	0%	13%	0%
	New Jersey, other	0%	0%	0%	0%
Other States		0%	0%	0.1%	0%
Total		133,463 (100%)	19,555 (100%)	89,748 (100%)	91,466 (100%)

Source: NMFS VTR database. September 2012.

4.0 IMPACTS OF 2016-2018 ATLANTIC HERRING FISHERY SPECIFICATIONS

In this section, the impacts of the proposed 2016-2018 Atlantic herring fishery specifications are assessed and discussed relative to each of the valued ecosystem components (VECs) described in the Affected Environment (Section 3.0). The impacts of the no action alternative and non-preferred alternatives considered by the Council are also evaluated in this section.

4.1 IMPACTS ON ATLANTIC HERRING

The Atlantic herring fishery is administered in accordance with the Atlantic Herring FMP, as modified by applicable amendments and framework adjustments. The Atlantic Herring FMP was developed by the Council and implemented by NMFS in 2000. The Atlantic herring fishery specification-setting process is the primary management tool used to manage the U.S. catch of Atlantic herring to ensure that overfishing does not occur. The specifications process was modified in Amendment 1 (from annual to every three years) and in Amendment 4 (for consistency with the ACL/AM provisions in the reauthorized MSA). Overall, fishing mortality on Atlantic herring is managed through the specification of the stockwide ACL (reduced from the overfishing limit and acceptable biological catch to address scientific uncertainty and management uncertainty) and sub-ACLs that are intended to minimize risk to individual stock components while maximizing opportunities for the fishery to achieve OY.

Updated information about the Atlantic herring resource is provided in Section 3.1 of this document (p. 31). Based on the best available scientific information (Atlantic herring operational assessment, April 2015), the Atlantic herring resource continues to remain well above its biomass target (**rebuilt**), and fishing mortality remains well below the F_{MSY} threshold (**not overfishing**). A retrospective pattern re-emerged when updating the assessment model, which suggests that Atlantic herring SSB is likely to be overestimated and F is likely to be underestimated in the terminal year of the assessment. The retrospective adjustments resulted in approximately a 40% decrease in the terminal year (2014) SSB estimate and a 60% increase in the 2014 F estimate. Even with the retrospective adjustments, the Atlantic herring stock complex remains above the biomass target and below the fishing mortality threshold (see Table 19, Figure 2, p. 32 of this document for more information).

The impacts of the proposed 2016-2018 Atlantic herring fishery specifications and alternatives for 2016-2018 RH/S catch caps on the Atlantic herring resource are discussed in the following subsections.

4.1.1 Impacts of Alternatives for 2016-2018 Atlantic Herring Fishery Specifications on Atlantic Herring

Each of the alternatives considered by the Council for the 2016-2018 fishery specifications includes an annual specification for OFL, ABC, a stockwide Atlantic Herring ACL (OY), DAH, DAP, USAP, BT, management area sub-ACLs (and seasons), RSA, and FGSA for 2016-2018. The OFL represents the amount of annual Atlantic herring catch that would likely result in overfishing of the Atlantic herring resource; the ABC is the annual catch level recommended by the SSC to reduce the risk of overfishing while accounting for scientific uncertainty; the stockwide ACL/OY represents the maximum annual amount of Atlantic herring that the U.S. fishery can harvest, buffered for management uncertainty (in this case, Atlantic herring that may be caught in Canadian fisheries). AMs further ensure that the stockwide ACL is not exceeded in the U.S. fishery. Therefore, for the purposes of evaluating the potential impacts of the 2016-2018 catch levels on the Atlantic herring resource, potential removals under the stockwide ACL for each alternative can be compared to the ABC and OFL.

To facilitate the evaluation of the impacts of the alternatives on the Atlantic herring resource, Table 46 lists the potential annual removals of Atlantic herring that can be expected under each alternative, assuming that the stockwide Atlantic herring ACL is fully utilized. Table 46 also summarizes the accountability measures (AMs) that apply to the U.S. Atlantic herring fishery and provides some summary information about recent catch in the U.S. and Canadian fisheries that affect the Atlantic herring resource.

Table 46 Potential Removals of Atlantic Herring (mt) Under Alternatives for 2016-2018 Specifications

Specifications	No Action Alternative (2015 Specifications)	Alternative 2	Alternative 3 Preferred Alternative
OFL	2016 – 114,000 2017 – 114,000 2018 – 114,000	2016 – 138,000 2017 – 117,000 2018 – 111,000	2016 – 138,000 2017 – 117,000 2018 – 111,000
ABC	114,000	111,000	111,000
<i>Mgmt. Uncertainty</i>	6,200	3,000	6,200
Stockwide ACL/OY	107,800	108,000	104,800
Stockwide ACL with NB weir option	N/A 107,800	109,000	105,800
Accountability Measures	<ul style="list-style-type: none"> Directed fishery in management area closes when 92% of the sub-ACL is projected to be reached Directed fishery in all management areas close when 95% of the stockwide ACL is projected to be reached Overage paybacks for management area sub-ACLs and stockwide ACLs (one-year lag) Underage carryovers up to 10% for sub-ACLs (with one-year lag), cannot increase stockwide ACL 		
	U.S. Atl Herring Fishery	NB Weir Fishery (Canada)	Total Removals
2014 Catch	95,037	2,149	97,186
Three-Year Avg.	93,787	3,028	96,815
Five-Year Avg.	88,092	4,751	92,843

Because the Atlantic herring ABC specification for 2016-2018 only changes 2.6% from the 2013-2015 ABC specification, and because available biological/fishery information does not indicate a need to consider major changes to the distribution of allowable catch in the herring fishery or other specifications, the alternatives that the Council considered for 2016-2018 maintain the status quo for many of the fishery specifications; they differ primarily through the specification of management uncertainty and the stockwide Atlantic herring ACL.

The potential impacts on Atlantic herring resulting from the fishery specifications that are proposed to remain unchanged for 2016-2018 (common to all alternatives) are discussed below.

DAH

XXX

DAP

XXX

BT

XXX

USAP

XXX

RSA

XXX

FGSA

XXX

Sub-ACLs and Seasonal Sub-ACL Divisions

XXX

4.1.1.1 Impacts of Alternative 1 (No Action) on Atlantic Herring

Under the no action alternative, the annual specification of Atlantic herring OFL and ABC would remain 114,000 mt from 2016-2018. This ABC specification is higher than the SSC's recommended specification of 111,000 mt. Because this alternative specifies OFL and ABC at the same level in all three years, this alternative would result in no buffer between OFL and ABC to account for scientific uncertainty.

The biological impacts of the alternatives for the 2016-2018 specifications were evaluated using three-year projections of SSB, fishing mortality, and probability of overfishing/overfished in each year. In the projections, fishing mortality is derived from the estimate of F_{MSY} in the Atlantic herring operational assessment, and the terminal year estimates of F and SSB from the operational assessment (2014, with the retrospective adjustment) are used. A simulation of 1,000 projections is then run to capture possible outcomes of SSB and F for 2016-2018. Table 47 summarizes the biological impacts of Alternative 1 on the Atlantic herring resource with respect to fishing mortality and projected SSB for 2016-2018.

Herring PDT – Under Alternative 1, median Atlantic herring SSB is projected to decline 24% by 2018 to 421,000, which would still be well above the biomass target (i.e., the stock would still be considered rebuilt). However, the projections indicate that there is a 2% chance that SSB could fall below the “overfished” threshold. Median fishing mortality would increase close to F_{MSY} levels over the three years, and there would be a 54% chance that fishing mortality would exceed F_{MSY} in 2018 (i.e., that overfishing would occur). Because this alternative does not provide a buffer between OFL and ABC and allows annual catch to exceed the SSC recommendation for 2016-2018, and because there is a 54% probability that overfishing would occur in Year 3

(2018), the impacts of this alternative on the Atlantic herring resource are expected to be **low negative**.

Table 47 Three-Year F/SSB Projection Under Alternative 1 (No Action)

	No Action ABC (114,000mt)		
	2016	2017	2018
Median F	0.19	0.24	0.26
80%CI	0.13-0.30	0.15-0.37	0.15-0.44
Catch mt	114,000	114,000	114,000
Median SSB mt	555,000	454,000	421,000
80%CI	341,000-940,000	279,000-756,000	232,000-732,000
Prob SSB<(SSB_{MSY}/2)	0.00	0.00	0.02
Prob F>F_{MSY}	0.27	0.47	0.54

Projections assume that Atlantic herring catch equals the ABC specification in each of the three years.

4.1.1.2 Impacts of Alternative 2 (Non-Preferred) on Atlantic Herring

Under Alternative 2 (as well as Alternative 3), the annual specification of Atlantic herring ABC for 2016-2018 would be 111,000 mt, based on the recommendations of the Council’s SSC. The ABC specification proposed for 2016-2018 only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%).

Table 48 summarizes the biological impacts of Alternative 2 (and Alternative 3) on the Atlantic herring resource with respect to fishing mortality and projected SSB for 2016-2018. Under the ABC specification proposed in Alternatives 2 and 3, median Atlantic herring SSB is projected to decline 23% by 2018 to 427,000, which would still be well above the biomass target (i.e., the stock would still be considered rebuilt). By Year 3 (2018), median fishing mortality would increase close to F_{MSY} levels, but not as high as under Alternative 1, and there would be a 50% chance that fishing mortality would exceed F_{MSY} in 2018 (i.e., that overfishing would occur).

Herring PDT

- Alternatives 2 and 3 – same biological impacts due to the same ABC, provided that the ABC is not exceeded. Alternative 3 has lower stockwide ACL than Alternative 2, so less chance of exceeding ABC due to management uncertainty (Canadian catch).
- Alternatives 2 and 3 are slightly more positive when compared to Alternative 1 because there is a lower chance of overfishing in Year 3.
- When compared to Alternative 1 *Alternatives 2 and 3 would allow for a greater buffer between OFL and ABC in 2016 and 2017, which may afford more protection to the 2011 year class that is just starting to recruit into the mobile gear fishery.*

Table 48 Three-Year F/SSB Projection Under Alternatives 2 and 3

	Constant Catch with Probability $F > F_{MSY} = 0.50$ in 2018		
	2016	2017	2018
Median F	0.19	0.23	0.25
80%CI	0.13-0.29	0.15-0.36	0.15-0.42
Catch mt	111,000	111,000	111,000
80%CI	-	-	-
Median SSB mt	557,000	458,000	427,000
80%CI	343,000-942,000	283,000-760,000	237,000-738,000
Prob SSB < (SSB_{MSY}/2)	0.00	0.00	0.02
Prob $F > F_{MSY}$	0.23	0.43	0.50

Projections assume that Atlantic herring catch equals the ABC specification in each of the three years.

4.1.1.3 Impacts of Alternative 3 (Preferred Alternative) on Atlantic Herring

Similar to Alternative 2, the specification of Atlantic herring ABC for 2016-2018 under Alternative 3 would be 111,000 mt, based on the recommendations of the Council’s SSC. The three-year SSB and F projection under this alternative is provided in Table 48 (see previous subsection).

Overall, the impacts of this alternative on the Atlantic herring resource will be the same as those under Alternative 2, provided that the ABC is not exceeded in any year. XXX

4.1.2 Impacts of 2016-2018 RH/S Catch Caps on Atlantic Herring

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps are summarized in Table 18 on p. 30 of this document. The following subsections discuss the potential impacts of these alternatives on the Atlantic herring resource.

4.1.2.1 Impacts of RH/S Alternative 1 (No Action) on Atlantic Herring

RH/S Alternative 1 represents the no action alternative. Alternative 1 would maintain the 2014/2015 RH/S catch caps implemented in Framework 3 for the 2016-2018 fishing years. Under this alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Framework 3 (see Table 15 on p. 28).

XXX

4.1.2.2 Impacts of RH/S Alternative 2 (Non-Preferred) on Atlantic Herring

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT's updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3 (see Appendix I for more information). The same five-year time series that was utilized in Framework 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (see Table 16 on p. 29).

XXX

Option 1: Median. XXX

Option 2: Weighted Mean. XXX

4.1.2.3 Impacts of RH/S Alternative 3 (*Preferred*) on Atlantic Herring

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT's revised/updated data (see Appendix I for more information). This alternative would incorporate RH/S catch estimates from the most recent two years as well, extending the time series to seven years, with options to select either the median or weighted mean values (Table 17 on p. 30). Alternative 3, Option 2 represents the *Herring Committee's Preferred Alternative* for the 2016-2018 RH/S catch caps at this time.

XXX

Option 1: Median. XXX

Option 2: Weighted Mean (*Preferred Alternative*). XXX

4.2 IMPACTS ON NON-TARGET SPECIES

Add Intro

4.2.1 Impacts of Alternatives for 2016-2018 Atlantic Herring Fishery Specifications on Non-Target Species

Each of the alternatives considered by the Council for the 2016-2018 Atlantic herring fishery specifications includes an annual specification for OFL, ABC, a stockwide Atlantic Herring ACL (OY), DAH, DAP, USAP, BT, management area sub-ACLs (and seasons), RSA, and FGSA for 2016-2018. Because the Atlantic herring ABC specification proposed for 2016-2018 (recommended by the SSC, see Section 2.1.1) only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%), and because available biological/fishery information does not indicate a need to consider major changes to the distribution of allowable catch or other specifications, the alternatives that the Council considered for 2016-2018 maintain the status quo (2013-2015) for many of the fishery specifications; the alternatives considered by the Council differ primarily through the specification of management uncertainty and the overall (stockwide) Atlantic herring ACL.

The potential impacts on non-target species resulting from the fishery specifications that are proposed to remain unchanged for 2016-2018 (common to all alternatives) are discussed below. The impacts of each alternative considered by the Council are discussed individually in the subsequent subsections.

Overall, XXX.

DAH, DAP, BT, USAP

XXX

RSA

XXX

FGSA

XXX

Sub-ACLs and Seasonal Sub-ACL Divisions

XXX

4.2.1.1 Impacts of Alternative 1 (No Action) on Non-Target Species

Under the no action alternative, the annual specification of Atlantic herring OFL and ABC would remain 114,000 mt from 2016-2018. This ABC specification is higher than the SSC's recommended specification of 111,000 mt.

XXX

4.2.1.2 Impacts of Alternative 2 (Non-Preferred) on Non-Target Species

Under Alternative 2 (as well as Alternative 3), the annual specification of Atlantic herring ABC for 2016-2018 would be 111,000 mt, based on the recommendations of the Council's SSC. The ABC specification proposed for 2016-2018 only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%).

XXX

4.2.1.3 Impacts of Alternative 3 (Preferred Alternative) on Non-Target Species

Under Alternative 3 (as well as Alternative 2), the annual specification of Atlantic herring ABC for 2016-2018 would be 111,000 mt, based on the recommendations of the Council's SSC. The ABC specification proposed for 2016-2018 only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%).

XXX

4.2.2 Impacts of 2016-2018 RH/S Catch Caps on Non-Target Species

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps are summarized in Table 18 on p. 30 of this document. The following subsections discuss the potential impacts of these alternatives on non-target species. Particular consideration is given in the following discussion to the potential impacts on river herring and shad.

Table 49 summarizes the total potential removals of RH/S in the directed Atlantic herring fishery (trips landing more than 6,600 pounds of Atlantic herring) under the RH/S catch caps proposed in each alternative, assuming that 100% of the caps are caught. Of the alternatives under consideration for the 2016-2018 RH/S catch caps, Alternative 3 with the weighted mean would allow for the highest RH/S removals, followed by Alternative 1 (no action), Alternative 2 with the weighted mean, and Alternative 2 with the median. Alternative 3 with the median would allow for the lowest amount of total RH/S removals.

Table 49 Potential Removals of River Herring/Shad (mt) Under Each Catch Cap Alternative

	Alt 1 (No Act)	Alt 2 (Median)	Alt 2 (Wgt Mean)	Alt 3 (Median)	Alt 3 (Wgt Mean)
Midwater Trawl GOM	85.5	98.1	98.3	11.3	76.7
Midwater Trawl Cape Cod	13.3	8.9	27.6	29.5	32.4
Midwater Trawl SNE/MA	123.7	83.9	115.4	83.9	129.6
Total Midwater Trawl	222.5	190.9	241.3	124.7	238.7
Small Mesh Bottom Trawl SNE/MA	88.9	19.6	28.2	24.0	122.3
Total RH/S Removals	311.4	210.5	269.5	148.7	361

**Estimated RH/S removals in the table above assume that 100% of the caps are taken on trips landing more than 6,600 pounds of Atlantic herring during the fishing year.*

4.2.2.1 Impacts of RH/S Alternative 1 (No Action) on Non-Target Species

RH/S Alternative 1 represents the no action alternative. Alternative 1 would maintain the 2014/2015 RH/S catch caps implemented in Framework 3 for the 2016-2018 fishing years. Under this alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Framework 3 (see Table 15 on p. 28).

Framework 3 became effective very late in the 2014 fishing year, so 2015 will be the first fishing year that the directed Atlantic herring fishery is operating under RH/S catch caps. The effects of the Framework 3 catch caps on the RH/S stocks, therefore, have not yet been realized.

If 100% of the RH/S caps are taken in the directed Atlantic herring fishery (trips landing more than 6,600 pounds) during the fishing year, then Alternative 1 (no action) would allow for more total RH/S removals than Alternative 2 and Alternative 3 Median, but less total RH/S removals than Alternative 3 Weighted Mean (see Table 49).

XXX

4.2.2.2 Impacts of RH/S Alternative 2 (Non-Preferred) on Non-Target Species

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT's updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3. The same five-year time series that was utilized in Framework 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (see Table 16 on p. 29 and Appendix I for more information).

If 100% of the RH/S caps are taken in the directed Atlantic herring fishery (trips landing more than 6,600 pounds) during the fishing year, then Alternative 2 is more conservative with respect to total RH/S removals than Alternative 1 (no action) and Alternative 3 Weighted Mean (*Herring Committee Preferred Alternative*), and it is less conservative than Alternative 3 Median (see Table 49).

Option 1: Median. This option would allow for up to 190.9 mt of RH/S to be taken by midwater trawl vessels and 19.6 mt of RH/S to be taken by small mesh bottom trawl vessels fishing in the southern New England/Mid-Atlantic area. Relative to the no action alternative (2015 RH/S catch caps), this option would decrease the amount of RH/S that could be taken by midwater trawl vessels by 14% and would significantly decrease (78%) the amount of RH/S that could be taken by SNE/MA SMBT vessels. Overall, the amount of RH/S that could be taken by the directed Atlantic herring fishery would decrease by 32.4% from 2015 levels under this option. This option includes the lowest RH/S catch cap for the southern New England/Mid-Atlantic SMBT fleet.

XXX

Option 2: Weighted Mean. This option would allow for up to 241.3 mt of RH/S to be taken by midwater trawl vessels and 28.2 mt of RH/S to be taken by small mesh bottom trawl vessels fishing in the southern New England/Mid-Atlantic area. Relative to the no action alternative (2015 RH/S catch caps), this option would increase the amount of RH/S that could be taken by midwater trawl vessels by 8.4% and would decrease the amount of RH/S that could be taken by SNE/MA SMBT vessels by 68.3%. Overall, the amount of RH/S that could be taken by the directed Atlantic herring fishery would decrease by 13.5% from 2015 levels under this option.

XXX

4.2.2.3 Impacts of RH/S Alternative 3 (*Preferred*) on Non-Target Species

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT's revised/updated data (see Appendix I for more information). This alternative would incorporate RH/S catch estimates from the most recent two years as well, extending the time series to seven years, with options to select either the median or weighted mean values (Table 17 on p. 30). Alternative 3, Option 2 represents the *Herring Committee's Preferred Alternative* for the 2016-2018 RH/S catch caps at this time.

If 100% of the RH/S caps are taken in the directed Atlantic herring fishery (trips landing more than 6,600 pounds) during the fishing year, then Alternative 3 Median is the most conservative option under consideration with respect to total RH/S removals, and Alternative 3 Weighted Mean (*Herring Committee Preferred Alternative*) is the least conservative (see Table 49). Alternative 3 Weighted Mean would allow total RH/S removals to increase about 16% from the potential removals allowed under the 2015 RH/S catch caps (no action alternative).

Option 1: Median. This option would allow for up to 124.7 mt of RH/S to be taken by midwater trawl vessels and 24 mt of RH/S to be taken by small mesh bottom trawl vessels fishing in the southern New England/Mid-Atlantic area. Relative to the no action alternative (2015 RH/S catch caps), this option would decrease the amount of RH/S that could be taken by midwater trawl vessels by 44% and would decrease the amount of RH/S that could be taken by SNE/MA SMBT vessels by 73%.

With respect to RH/S removals, this is the most conservative option under consideration for the 2016-2018 RH/S catch caps. Overall, the total amount of RH/S that could be taken by the directed Atlantic herring fishery would decrease by 52.2% from 2015 levels under this option. While this option would allow for midwater trawl removals of RH/S to increase in the Cape Cod Area, overall removals of RH/S allowed by midwater trawl vessels under this option are the lowest of the alternatives under consideration. This option also proposes a significant reduction in the RH/S catch cap for small mesh bottom trawl vessels fishing in the southern New England/Mid-Atlantic area.

XXX

Option 2: Weighted Mean (Preferred Alternative). This option would allow for up to 238.7 mt of RH/S to be taken by midwater trawl vessels and 122.3 mt of RH/S to be taken by small mesh bottom trawl vessels fishing in the southern New England/Mid-Atlantic area. This is the only option that includes an increase in the RH/S catch cap for southern New England/Mid-Atlantic SMBT vessels. Relative to the no action alternative (2015 RH/S catch caps), this option would increase the amount of RH/S that could be taken by midwater trawl vessels by 7.3% and would increase the amount of RH/S that could be taken by SNE/MA SMBT vessels by 37.6%. Overall, the total amount of RH/S that could be taken by the directed Atlantic herring fishery would increase by 15.9% from 2015 levels under this option.

XXX

4.3 IMPACTS ON PHYSICAL ENVIRONMENT AND ESSENTIAL FISH HABITAT

Add Intro

4.3.1 Impacts of Alternatives for 2016-2018 Atlantic Herring Fishery Specifications on the Physical Environment and EFH

Each of the alternatives considered by the Council for the 2016-2018 fishery specifications includes an annual specification for OFL, ABC, a stockwide Atlantic Herring ACL (OY), DAH, DAP, USAP, BT, management area sub-ACLs (and seasons), RSA, and FGSA for 2016-2018. Because the Atlantic herring ABC specification proposed for 2016-2018 (recommended by the SSC, see Section 2.1.1) only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%), and because available biological/fishery information does not indicate a need to consider major changes to the distribution of allowable catch or other specifications, the alternatives that the Council considered for 2016-2018 maintain the status quo (2013-2015) for many of the fishery

specifications; the alternatives considered by the Council differ primarily through the specification of management uncertainty and the overall (stockwide) Atlantic herring ACL.

Summarize EFH Impacts

RSA

XXX

FGSA

XXX

4.3.1.1 Impacts of Alternative 1 (No Action) on the Physical Environment and EFH

XXX

4.3.1.2 Impacts of Alternative 2 (Non-Preferred) on the Physical Environment and EFH

XXX

4.3.1.3 Impacts of Alternative 3 (*Preferred Alternative*) on the Physical Environment and EFH

XXX

4.3.2 Impacts of 2016-2018 RH/S Catch Caps on the Physical Environment and EFH

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps are summarized in Table 18 on p. 30 of this document. The following subsections discuss the potential impacts of these alternatives/options on the physical environment and EFH.

4.3.2.1 Impacts of RH/S Alternative 1 (No Action) on Physical Environment and EFH

RH/S Alternative 1 represents the no action alternative. Alternative 1 would maintain the 2014/2015 RH/S catch caps implemented in Framework 3 for the 2016-2018 fishing years. Under this alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Framework 3 (see Table 15 on p. 28).

XXX

4.3.2.2 Impacts of RH/S Alternative 2 (Non-Preferred) on Physical Environment and EFH

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT's updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3. The same five-year time series that was utilized in Framework 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (see Table 16 on p. 29).

XXX

Option 1: Median. XXX

Option 2: Weighted Mean. XXX

4.3.2.3 Impacts of RH/S Alternative 3 (Preferred) on Physical Environment and EFH

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT's revised/updated data (see Appendix I for more information). This alternative would incorporate RH/S catch estimates from the most recent two years as well, extending the time series to seven years, with options to select either the median or weighted mean values (Table 17 on p. 30). Alternative 3, Option 2 represents the Herring Committee's Preferred Alternative for the 2016-2018 RH/S catch caps at this time.

XXX

Option 1: Median. XXX

Option 2: Weighted Mean (Preferred Alternative). XXX

4.4 IMPACTS ON PROTECTED RESOURCES

Add Intro

4.4.1 Impacts of Alternatives for 2016-2018 Atlantic Herring Fishery Specifications on Protected Resources

Each of the alternatives considered by the Council for the 2016-2018 Atlantic herring fishery specifications includes an annual specification for OFL, ABC, a stockwide Atlantic Herring ACL (OY), DAH, DAP, USAP, BT, management area sub-ACLs (and seasons), RSA, and FGSA for 2016-2018. Because the Atlantic herring ABC specification proposed for 2016-2018 (recommended by the SSC, see Section 2.1.1) only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%), and because available biological/fishery information does not indicate a need to consider major changes to the distribution of allowable catch or other

specifications, the alternatives that the Council considered for 2016-2018 maintain the status quo (2013-2015) for many of the fishery specifications; the alternatives considered by the Council differ primarily through the specification of management uncertainty and the overall (stockwide) Atlantic herring ACL.

The potential impacts on protected resources resulting from the fishery specifications that are proposed to remain unchanged for 2016-2018 (common to all alternatives) are discussed below. The impacts of each alternative considered by the Council are discussed individually in the subsequent subsections.

Overall, XXX.

DAH, DAP, BT, USAP

XXX

RSA

XXX

FGSA

XXX

Sub-ACLs and Seasonal Sub-ACL Divisions

XXX

4.4.1.1 Impacts of Alternative 1 (No Action) on Protected Resources

XXX

4.4.1.2 Impacts of Alternative 2 (Non-Preferred) on Protected Resources

XXX

4.4.1.3 Impacts of Alternative 3 (*Preferred Alternative*) on Protected Resources

XXX

4.4.2 Impacts of 2016-2018 RH/S Catch Caps on Protected Resources

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps are summarized in Table 18 on p. 30 of this document. The following subsections discuss the potential impacts of these alternatives/options on protected resources.

4.4.2.1 Impacts of RH/S Alternative 1 (No Action) on Protected Resources

RH/S Alternative 1 represents the no action alternative. Alternative 1 would maintain the 2014/2015 RH/S catch caps implemented in Framework 3 for the 2016-2018 fishing years. Under this alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Framework 3 (see Table 15 on p. 28).

XXX

4.4.2.2 Impacts of RH/S Alternative 2 (Non-Preferred) on Protected Resources

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT's updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3. The same five-year time series that was utilized in Framework 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (see Table 16 on p. 29).

XXX

Option 1: Median. XXX

Option 2: Weighted Mean. XXX

4.4.2.3 Impacts of RH/S Alternative 3 (*Preferred*) on Protected Resources

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT's revised/updated data (see Appendix I for more information). This alternative would incorporate RH/S catch estimates from the most recent two years as well, extending the time series to seven years, with options to select either the median or weighted mean values (Table 17 on p. 30). Alternative 3, Option 2 represents the **Herring Committee's Preferred Alternative** for the 2016-2018 RH/S catch caps at this time.

XXX

Option 1: Median. XXX

Option 2: Weighted Mean (*Preferred Alternative*). XXX

4.5 IMPACTS ON FISHERY-RELATED BUSINESSES AND COMMUNITIES

The analysis of impacts to the “Fishery-Related Businesses and Communities” VEC characterizes the magnitude and extent of the economic and social impacts likely to result from the alternatives considered for the 2012-2013 specifications as compared to the no action alternatives. The current interpretation of National Standard 8 requires the Council to consider the importance of fishery resources to affected communities and provide those communities with continuing access to fishery resources, but it does not allow the Council to compromise the conservation objectives of the management measures. Thus, continued overall access to fishery resources is a consideration, but not a guarantee that fishermen will be able to use a particular gear type, harvest a particular species of fish, fish in a particular area, or fish during a certain time of the year.

A fundamental difficulty exists in forecasting economic and social change relative to fishery management alternatives when communities or other societal groups are constantly evolving in response to numerous external factors, such as market conditions, technology, alternate uses of waterfront, and tourism. Certainly, management regulations influence the direction and magnitude of economic and social change, but attribution is difficult with the tools and data available. While this analysis focuses generally on the economic and social impacts of the proposed fishing regulations, external factors may also influence change, both positive and negative, in the affected communities. In many cases, these factors contribute to a community’s vulnerability and ability to adapt to new or different fishing regulations.

When examining potential economic and social impacts of management measures, it is important to consider impacts on the following: the fishing fleet (vessels grouped by fishery, primary gear type, and/or size); vessel owners and employees (captains and crew); herring dealers and processors; final users of herring; community cooperatives; fishing industry associations; cultural components of the community; and fishing families. While some management measures may have a short-term negative impact on some communities, this should be weighed against potential long-term benefits to all communities which can be derived from a sustainable herring fishery.

The social impact factors outlined below can be used to describe the Atlantic herring fishery, its sociocultural and community context and its participants. These factors or variables are considered relative to the management alternatives and used as a basis for comparison between alternatives. Use of these kinds of factors in social impact assessment is based on NMFS guidance (NMFS 2007) and other texts (e.g. Burdge 1998). Longitudinal data describing these social factors region-wide and in comparable terms is limited. While this analysis does not quantify the impacts of the management alternatives relative to the social impact factors, qualitative discussion of the potential changes to the factors characterizes the likely direction and magnitude of the impacts. The factors fit into five categories:

- *Size and Demographic Characteristics* of the fishery-related workforce residing in the area; these determine demographic, income, and employment effects in relation to the workforce as a whole, by community and region.

- The *Attitudes, Beliefs, and Values* of fishermen, fishery-related workers, other stakeholders and their communities; these are central to understanding the behavior of fishermen on the fishing grounds and in their communities.
- The effects of the proposed action on *Social Structure and Organization*; that is, changes in the fishery's ability to provide necessary social support and services to families and communities.
- The *Non-Economic Social Aspects* of the proposed action; these include lifestyle, health, and safety issues, and the non-consumptive and recreational uses of living marine resources and their habitats.
- The *Historical Dependence on and Participation in* the fishery by fishermen and communities, reflected in the structure of fishing practices, income distribution, and rights (NMFS 2007).

4.5.1 Impacts of Alternatives for 2016-2018 Atlantic Herring Fishery Specifications on Fishery-Related Businesses and Communities

This section discusses the impacts of the alternatives for the 2016-2018 Atlantic herring fishery specifications on fishery-related businesses and communities. Each of the alternatives considered by the Council includes an annual specification for OFL, ABC, a stockwide Atlantic Herring ACL (OY), DAH, DAP, USAP, BT, management area sub-ACLs (and seasons), RSA, and FGSA for 2016-2018. Because the Atlantic herring ABC specification proposed for 2016-2018 (recommended by the SSC, see Section 2.1.1) only differs from the 2013-2015 ABC specification by 3,000 mt (2.6%), and because available biological/fishery information does not indicate a need to consider major changes to the distribution of allowable catch or other specifications, the alternatives that the Council considered for 2016-2018 maintain the status quo (2013-2015) for many of the fishery specifications; the alternatives considered by the Council differ primarily through the specification of management uncertainty and the overall (stockwide) Atlantic herring ACL.

The potential impacts on fishery-related businesses and communities resulting from the Atlantic herring fishery specifications that are proposed to remain unchanged for 2016-2018 (common to all alternatives) are discussed below. The impacts of each alternative considered by the Council are discussed individually in the subsequent subsections.

Overall, relative to the no action alternative, no additional economic or social impacts are expected for status quo fishery specifications beyond those noted in Section 1.1.1 (p. XXX). Certainty about regulations and the future of the Atlantic herring fishery is a substantial benefit for business and household planning.

Over the long-term, harvesting within OFL, ABC, and ACL constraints should provide for a sustainable herring fishery. When considering the importance of fishery resources to fishing communities, National Standard 8 specifies that, "All other things being equal, where two alternatives achieve similar conservation goals, the alternative that provides the greater potential for sustained participation of such [fishing] communities and minimizes the adverse economic

impacts on such communities would be the preferred alternative (NMFS 2009).” For the OFL, ABC, and ABC control rule alternatives included in this specifications document (Section 2.1), the SSC has determined that Alternatives 2 and 3 are biologically acceptable (NEFMC 2015).

DAH

Setting DAH at OY would maximize opportunity for the industry. Given that the DAH could only slightly change under Alternative 2 or 3 relative to No Action, employment opportunities would likely be unchanged, resulting in neutral impacts to the *Size and Demographic Characteristics* of the fishery-related workforce. The *Historical Dependence on and Participation* in the fishery would likely be sustained.

DAP

Since DAP would remain at DAH minus 4,000 mt for border transfer, Alternatives 2 or 3 would likely result in no new social or economic impacts relative to the status quo.

BT

Updated information about border transfer utilization is provided in Section 2.2.2 of this document (p. 22). Under all of the alternatives for the 2016-2018 Atlantic herring fishery specifications, the BT specification would remain 4,000 mt. This specification does not represent an allocation from a specific management area or areas; rather, it represents a maximum amount of Atlantic herring (caught from any management areas) that can be transferred to Canadian vessels for trans-shipment.

BT utilization has generally decreased since 1994, with a peak of 3,690 in 1996. The average BT between 1994 and 2011 has been 971 mt per year, but since 2007, the average has been 200 mt per year (5% of BT). Because allowable BT would be unchanged, Alternatives 2 or 3 would likely result in no new social or economic impacts relative to the status quo.

USAP

Currently, there are no at-sea processing businesses in operation, so there is no need to allocate a portion of the catch in this manner. Alternatives 2 or 3 would likely result in no new social or economic impacts relative to the status quo.

RSA

XXX

FGSA

XXX

Sub-ACLs and Seasonal Sub-ACL Divisions

XXX

4.5.1.1 Impacts of Alternative 1 (No Action) on Fishery-Related Businesses and Communities

Under Alternative 1 (no action alternative), the herring fishery specifications from 2015 would remain constant for 2016-2018 fishing years. The specification of Atlantic herring ABC would remain at 114,000 mt, which is above the SSC recommendation for 2016-2018 (111,000 mt).

With no change in the ABC, Alternative 1 would likely result in a degree of constancy and predictability for fishing industry operations and a steady supply to the market (in addition to the stability provided by a three-year specifications process). Maintaining the status quo ABC would likely result in either neutral or positive social and economic impacts in the short term. The *Size and Demographic Characteristics* of the fishery-related workforce would likely be unchanged, as would the *Historical Dependence on and Participation* in the fishery. However, since the ABC is slightly higher than the level recommended by the SSC to be biologically acceptable, Alternative 1 may lead to a decline in the Atlantic herring resource, which would have long-term negative impacts.

4.5.1.2 Impacts of Alternative 2 (Non-Preferred) on Fishery-Related Businesses and Communities

Alternative 2 would specify Atlantic herring ABC at the level recommended by the SSC (111,000 mt) and would maintain a status quo approach to specifying the management uncertainty buffer for 2016-2018 (value is 3,000 mt lower). All other specifications would be unchanged (e.g., border transfer).

Relative to Alternative 1, Alternative 2 provides essentially the same fishing opportunities for participants in the herring fishery in all three years (ACL is 200 mt per year more) and slightly more than Alternative 3. Because ready substitutes for Atlantic herring exist, prices are not likely to change dramatically when the quantity supplied of herring changes, so an increase in supply is likely to correspond to an increase in revenue (Section 3.5.5). If an increase in quantity supplied is realized, employment opportunities would likely increase, resulting in low positive impacts to the *Size and Demographic Characteristics* of the fishery-related workforce relative to Alternative 1. The *Historical Dependence on and Participation* in the fishery would either be sustained or increased. Like Alternative 1, this alternative maintains a constant ABC over the specifications period, providing consistency for fishing industry operations, stability for the industry and a steady supply to the market (in addition to the stability provided by a three-year specifications process). Overall, the impacts of Alternative 2 relative to Alternative 1 on fishing businesses and communities are likely neutral. Relative to Alternative 3, the impacts would be low positive to neutral.

Address:

Option for 1,000 mt to return to 1A

4.5.1.3 Impacts of Alternative 3 (*Preferred Alternative*) on Fishery-Related Businesses and Communities

Alternative 3 would specify Atlantic herring ABC at the level recommended by the SSC (111,000 mt) and would maintain the status quo value of the management uncertainty buffer for 2016-2018 and all other specifications (e.g., border transfer).

Relative to Alternatives 1 and 2, Alternative 3 would provide slightly less fishing opportunity in 2016-2018 for participants in the herring fishery (ACL lowered by 3,000 mt). If an decrease in quantity supplied is realized, employment opportunities would likely decrease, resulting in low negative impacts to the *Size and Demographic Characteristics* of the fishery-related workforce relative to Alternatives 1 and 2. The *Historical Dependence on and Participation in* the fishery would either be sustained or decreased. Like Alternatives 1 and 2, this alternative maintains a constant ABC over the specifications period, providing consistency for fishing industry operations, stability for the industry and a steady supply to the market (in addition to the stability provided by a three-year specifications process). Because the ACLs are so similar, the impacts of Alternative 3 relative to Alternatives 1 and 2 on fishing businesses and communities are likely neutral to low negative.

Address:

Option for 1,000 mt to return to 1A

4.5.2 Impacts of 2016-2018 RH/S Catch Caps on Fishery-Related Businesses and Communities

The alternatives under consideration for specifying the 2016-2018 RH/S catch caps are summarized in Table 18 on p. 30 of this document. the following subsections discuss the potential impacts of these alternatives/options on fishery-related businesses and communities.

The proposed RH/S catch caps apply to midwater trawl vessels in the Gulf of Maine and Cape Cod Catch Cap Areas, and to both midwater trawl and small mesh bottom trawl vessels in the southern New England/Mid-Atlantic Catch Cap Area (see RH/S Catch Cap Areas shaded on Figure 1, p. 3) on all trips landing more than 6,600 pounds of Atlantic herring. No RH/S catch cap would be adopted for the GB Catch Cap Area. Since only limited access herring vessels (permit categories A/B/C) are allowed to land more than 6,600 pounds of Atlantic herring, these are the vessels that this alternative would directly impact. The trips landing more than 6,600 pounds of Atlantic herring accounted for 96% of all Atlantic herring landings between 2008 and 2012. While the catch caps directly impact the active limited-access herring vessels, they may indirectly impact users of herring, such as lobster harvesters and others who use herring as bait. Framework 3 details the impacts of establishing the catch cap program now in place.

Comment [RGF6]: Update?

General Discussion of Positive Impacts: RH/S catch caps are unlikely to have a significant negative social impact on herring-dependent communities, as long as present harvesters are able to continue fishing without significant disruption. RH/S catch caps incentivize participants in the directed herring fishery to find innovative, low-cost solutions to avoid river herring and shad. Communication networks developed for river herring avoidance might be used for other reasons, for example, safety-related circumstances that arise suddenly or other fisheries or fishing-related problems. Having a RH/S catch cap in inshore areas may incentivize fishing offshore. To the extent that the caps successfully lead to increases in RH/S abundance, establishing caps would increase the sense of well-being of those whose businesses rely on herring as forage, and RH/S stocks could eventually be of less concern. It would likely lead to improved coordination with the MAFMC, resulting in greater trust in management among the industry, a positive impact on the formation of *Attitudes* and *Beliefs*. To the extent that the caps successfully limit catch of RH/S, the herring catch may be cleaner, requiring less culling.

General Discussion of Negative Impacts: RH/S catch caps could result in some negative impacts on fishery-related businesses and communities as well. If the RH/S catch cap is reached for a gear type in the directed fishery in a particular area(s), the resultant closure of the directed fishery could reduce fishing profits in the herring fishery. This could lead to lower employment and a decrease in the *Size and Demographic Characteristics* of the fishery-related workforce. Fishermen could hold negative *Attitudes* and *Beliefs* towards management if herring fishing is closed part-way through the year. Interruption in the supply of herring could raise the cost of bait for the lobster fishery and other users, thereby potentially affecting the *Size and Demographic Characteristics* of the lobster industry. Additional reporting burdens could produce negative *Attitudes* about management. Closing the fishery to certain gear types in certain areas may cause resentment or conflict between fishing groups, a negative social impact in the form of changes to *Social Structures and Organizations*. Closing the fishery inshore may incentivize smaller vessels to fish offshore, which may lead to unsafe fishing conditions, a negative impact on the *Non-Economic Social Aspects* of the action.

Comment [RGF7]: Condensed from Framework 3

4.5.2.1 Impacts of RH/S Alternative 1 (No Action) on Fishery-Related Businesses and Communities

Under the no action alternative, the 2016-2018 RH/S catch caps would be based on the median value of estimated RH/S catch from 2008-2012 from Framework 3 (see Table 15 on p. 28). The impacts of Alternative 1 on fishery-related businesses and communities are likely to be neutral, as the status quo would be maintained.

Comment [RGF8]: Should say something about how we have little data on the performance of the caps just implemented, so impacts analysis of changing them is difficult.

4.5.2.2 Impacts of RH/S Alternative 2 (Non-Preferred) on Fishery-Related Businesses and Communities

Under RH/S Alternative 2, the 2016-2018 RH/S catch caps would be based on the Herring PDT's updates/revisions to the 2008-2012 RH/S catch estimates from Framework 3. The same five-year time series that was utilized in Framework 3 (2008-2012 with updated/revised data) would be utilized to determine the RH/S catch caps under this alternative, with options to select either the median or weighted mean from the time series (see Table 16 on p. 29).

The impacts of Alternative 2 on fishery-related businesses and communities are likely to be positive relative to Alternative 1. Using improved data for the basis of management would have positive impacts on the *Attitudes and Beliefs* of stakeholders on their perceptions of management. The revised values lower the catch caps, which would be less constraining on the directed fishery relative to Alternative 1.

Option 1: Median. Option 1 uses the median values of the 2008-2012 revised data. The impacts of Option 1 on fishery-related businesses and communities would be low negative relative to Option 2. The caps would be more constraining of the directed Atlantic herring fishery. Option 1 would allow more river herring to remain in the ecosystem, a positive impact to users of the river herring resource.

Option 2: Weighted Mean. Option 2 uses the weighted mean values of the 2008-2012 revised data. The impacts of Option 2 on fishery-related businesses and communities would be low positive relative to Option 2. The caps would be less constraining of the directed Atlantic herring fishery. Option 2 would allow less river herring to remain in the ecosystem, a negative impact to users of the river herring resource.

4.5.2.3 Impacts of RH/S Alternative 3 (*Preferred*) on Fishery-Related Businesses and Communities

Under RH/S Alternative 3, the 2016-2018 RH/S catch caps would be specified based on RH/S catch estimates from 2008-2014, using the Herring PDT's revised/updated data (see Appendix I for more information). This alternative would incorporate RH/S catch estimates from the most recent two years as well, extending the time series to seven years, with options to select either the median or weighted mean values (Table 17 on p. 30). Alternative 3, Option 2 represents the *Herring Committee's Preferred Alternative* for the 2016-2018 RH/S catch caps at this time.

The impacts of Alternative 3 on fishery-related businesses and communities are likely to be positive relative to Alternative 1. Using improved data for the basis of management would have positive impacts on the *Attitudes and Beliefs* of stakeholders on their perceptions of management. Alternative 3 would lower the catch caps for some gear types and areas, but increase them for others, relative to Alternatives 1 and 2.

Option 1: Median. Option 1 uses the median values of the 2008-2014 data. The impacts of Option 1 on fishery-related businesses and communities would be low negative relative to Option 2. The caps would be more constraining of the directed Atlantic herring fishery. Option 1 would allow more river herring to remain in the ecosystem, a positive impact to users of the river herring resource.

Option 2: Weighted Mean (*Preferred Alternative*). Option 2 uses the weighted mean values of the 2008-2014 data. The impacts of Option 2 on fishery-related businesses and communities would be low positive relative to Option 1. The caps would be less constraining of the directed

Atlantic herring fishery. Option 2 would allow less river herring to remain in the ecosystem, a negative impact to users of the river herring resource.

4.6 CUMULATIVE EFFECTS ASSESSMENT

A cumulative effects assessment (CEA) is a required part of an EIS or EA according to the Council on Environmental Quality (CEQ) (40 CFR part 1508.7) and NOAA's agency policy and procedures for NEPA, found in NOAA Administrative Order 216-6. The purpose of the CEA is to integrate into the impact analyses the combined effects of many actions over time that would be missed if each action were evaluated separately. CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action from every conceivable perspective but, rather, the intent is to focus on those effects that are truly meaningful. This section serves to examine the potential direct and indirect effects of the alternatives in Framework 2 and the 2013-2015 Atlantic herring fishery specifications together with past, present, and reasonably foreseeable future actions that affect the environment related to the Atlantic herring fishery. It should also be noted that the predictions of potential synergistic effects from multiple actions, past, present and/or future will generally be qualitative in nature.

The regulatory atmosphere within which Federal fishery management operates requires that management actions be taken in a manner that will optimize the conditions of resources, habitat, and human communities. Consistent with NEPA, the MSA requires that management actions be taken only after consideration of impacts to the biological, physical, economic, and social dimensions of the human environment. Given this regulatory environment, and because fishery management actions must strive to create and maintain sustainable resources, impacts on all VECs (except short-term impacts to human communities) from past, present and reasonably foreseeable future actions, when combined with baseline conditions, have generally been positive and are expected to continue in that manner for the foreseeable future. This is not to say that some aspects of the various VECs are not experiencing negative impacts, but rather that when taken as a whole and compared to the level of unsustainable effort that existed prior to and just after the fishery came under management control, the overall long-term trend is positive.

The following analysis will identify and characterize the impact on the environment from the proposed 2016-2018 Atlantic herring specifications when analyzed in the context of other past, present, and reasonably foreseeable future actions. The analysis is generally qualitative in nature because of the limitations of determining effects over the large geographic areas under consideration.

4.6.1 Valued Ecosystem Components

XXX

4.6.2 Spatial and Temporal Boundaries

The geographic area that encompasses the physical, biological and human communities impacts to be considered in the cumulative effects analysis are described in detail in Section XXX of this document (Affected Environment). The geographic range for impacts to fish species is the range of each fish species in the western Atlantic Ocean. The physical environment, including habitat and EFH, is bounded by the range of the Atlantic herring fishery, from the Gulf of Maine through the mid-Atlantic Bight, and includes adjacent upland areas (from which non-fishing impacts may originate). For protected species, the geographic range is the total range of Atlantic herring. The geographic range for fishery-related businesses and communities is defined in the Affected Environment as well.

Overall, while the effects of the historical herring fishery are important and are considered in the analysis, the temporal scope of past and present actions for Atlantic herring, non-target species and other fisheries, the physical environment and EFH, protected species, fishery-related businesses and communities is focused principally on actions that have occurred since 1996, when the MSA was amended and implemented new fisheries management and EFH requirements. The temporal scope for marine mammals begins in the mid-1990s, when NMFS was required to generate stock assessments for marine mammals that inhabit waters of the U.S. EEZ that create the baseline against which current stock assessments are evaluated. For turtle species, the temporal scope begins in the 1970s, when populations were noticed to be in decline. The temporal scope for Atlantic herring is focused more on the time since the Council's original Herring FMP was implemented at the beginning of the 2001 fishing year. The Atlantic Herring FMP serves as the primary management action for the Atlantic herring fishery and has helped to shape the current condition of the resource.

While the herring fishery specifications are assessed only for the 2013-2015 fishing years, the temporal scope of other management measures proposed in this framework/specifications document generally extends five years into the future for all VECs. This period was chosen because of the dynamic nature of resource management and lack of specific information on projects that may occur in the future, which make it difficult to predict impacts beyond this time frame with any certainty. This is also the rebuilding time frame for the Atlantic herring resource, as defined in the Atlantic Herring FMP, should the resource become overfished and subject to a rebuilding program in the future.

4.6.3 Analysis of Total Cumulative Effects

XXX

4.6.4 Past, Present, and Reasonably Foreseeable Future Actions

XXX

4.6.5 Baseline Conditions

XXX

4.6.6 Summary of Impacts from 2016-2018 Atlantic Herring Fishery Specifications

XXX

4.6.7 Cumulative Effects Summary

XXX

5.0 RELATIONSHIP TO APPLICABLE LAW

5.1 MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT (MSA)

5.1.1 National Standards

Section 301 of the Magnuson-Stevens Fishery Conservation and Management Act requires that fishery management plans (FMPs) contain conservation and management measures that are consistent with ten National Standards:

(REVISE/UPDATE)

In General. – Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the...national standards for fishery conservation and management.

(1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

The primary goal of managing the Atlantic herring fishery is to maintain long-term sustainable catch levels, consistent with the National Standards of the MSA. The first objective of the Herring FMP is to prevent overfishing. The Herring FMP established a fishery specifications process that ensures a consistent review of the herring stock status, fishery performance, and other factors in order to manage by annual catch limits (ACLs) and prevent overfishing. The additional management measures implemented in the herring fishery should further achieve the goals/objectives and reduce the possibility of overfishing the Atlantic herring resource. Optimum yield (OY) for the Atlantic herring fishery is defined in the Herring FMP (as modified by Amendments 1 – 4) and specified annually (in this document for 2016-2018) so that it will not exceed the Allowable Biological Catch (ABC, which accounts for scientific uncertainty), and

cannot exceed the overfishing limit (OFL), which is based upon a target fishing mortality rate that is determined as prescribed in the overfishing definition. This ensures that yield from the fishery can be optimized while preventing overfishing on a continuing basis.

(2) Conservation and management measures shall be based upon the best scientific information available.

Biological information from peer-reviewed stock assessments is used to formally evaluate stock condition. In 2012, the 54th stock assessment workshop (SAW 54) completed an Atlantic herring benchmark stock assessment. These formal stock assessments undergo rigorous development and review, and are peer-reviewed through the Stock Assessment Review Committee (SARC) process, which are the only such comprehensive assessments. This assessment therefore represents the best available information regarding the status of the Atlantic herring resource. Conclusions and results were available during the development of the action proposed in this document were evaluated with respect to the alternatives/options considered during the 2016-2018 Atlantic herring specifications process.

The economic analyses provided in this document are based primarily on landings, revenue, and effort information collected through the NMFS data collection systems used for this fishery. Although there are some limitations to the data used in the analysis of impacts of management measures, these data have been thoroughly reviewed and are considered to be the best available. Information about bycatch is based on reports collected by the NEFSC Sea Sampling (Observer) Branch and incorporated into the NOAA Fisheries observer database. The observer data are collected using an approved, scientifically-valid sampling process. Furthermore, the analyses were prepared by and reviewed by the Council's Herring Plan Development Team and complies with the Information Quality Act (IQA, see Section 5.6 for more discussion related to the IQA).

XXX

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The Atlantic Herring FMP and all related management actions address the long-term management of Atlantic herring throughout the range of the species in U.S. waters, in accordance with the jurisdiction of U.S. law. Most Atlantic herring are caught in the Exclusive Economic Zone (EEZ). While most herring are landed in Maine, Massachusetts, and Rhode Island, Atlantic herring landings have been reported in every state from Maine through Virginia. In order to address that portion of the resource that is caught in State waters, the Herring FMP and related actions, including this framework adjustment and specifications package, were developed in close coordination with the Atlantic States Marine Fisheries Commission.

XXX

(4) *Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.*

Fishery-related businesses and communities that participate in/depend on the Atlantic herring fishery are described in detail in Section **Error! Reference source not found.** of this document. The proposed 2016-2018 Atlantic herring specifications do not discriminate between residents of different States. This action does not allocate or assign fishing privileges among various fishermen.

The measures proposed in the 2016-2018 Atlantic herring fishery specifications are intended to be applied equally to herring permit holders of the same category (A/B, C, and/or D), regardless of homeport or location. However, the fact that fish are not distributed evenly, and that individual vessels may target specific stocks at different times of the year, means that distributive impacts cannot be avoided in some cases. While the measures do not discriminate between permit holders from different States, they may result in variable impacts across permit holders/fishery participants. The impacts of the proposed measures on fishing-related businesses and communities are discussed in various sections throughout Section **Error! Reference source not found.** of this document; differential impacts are identified and evaluated to the extent possible in the analyses. Overall, the specifications allocate an additional 16,600 mt of yield in each year from 2013-2015, and the impacts of the action proposed in this document are expected to be positive for fishing-related businesses and communities.

XXX

(5) *Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.*

The management measures proposed in this document should promote efficiency in the utilization of fishery resources through appropriate measures intended to provide access to the herring fishery for both current and historical participants while minimizing the race to fish in any of the herring management areas. Economic allocation is not the sole purpose the proposed 2016-2018 Atlantic herring fishery specifications. The **Preferred Alternatives** in this document are intended to promote biological stability in the fishery and also provide a benefit to the industry over the long-term.

XXX

(6) *Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.*

Changes in fisheries occur continuously, both as the result of human activity (for example, new technologies or shifting market demand) and natural variation (for example, oceanographic

perturbations). There are a number of factors which could introduce variations into the Atlantic herring fishery. As discussed in the Herring FMP as well as other recent stock assessment documents, there is some uncertainty in the estimate of current stock size. In addition, the structure and status of individual spawning components cannot be determined with precision, resulting in the assessment of a coastal stock complex rather than separate assessments for each individual spawning component. Because of the lack of a permitting and reporting system prior to VTR requirements and implementation of the Herring FMP, there is some uncertainty regarding the total harvest of Atlantic herring and the proportion of herring that is utilized for food/bait, particularly in more historical years. Market fluctuations, environmental factors, and predator-prey interactions constantly introduce additional variations among, and contingencies in, the herring resource, the fishery, and the available catch.

XXX

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

As always, the Council considered the costs and benefits associated with the proposed 2016-2018 Atlantic herring specifications. Any costs incurred as a result of the measures proposed in this document are considered to be necessary in order to achieve the goals and objectives of the herring management program and are viewed to be outweighed by the benefits of taking the management action. The management measures proposed in this document are not duplicative and were developed in close coordination with NMFS, the Atlantic States Marine Fisheries Commission (ASMFC), and other interested entities and agencies to minimize duplicity.

The proposed 2016-2018 Atlantic herring specifications are intended to minimize costs and avoid unnecessary duplication, to the extent possible. XXX

(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

XXX

(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

XXX

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

Fishing is a dangerous occupation; participants must constantly balance the risks imposed by weather against the economic benefits. A management plan should be designed so that it does not encourage dangerous behavior by the participants. According to the National Standard guidelines, the safety of the fishing vessel and the protection from injury of persons aboard the vessel are considered the same as “safety of human life at sea. The safety of a vessel and the people aboard is ultimately the responsibility of the master of that vessel. Each master makes many decisions about vessel maintenance and loading and about the capabilities of the vessel and crew to operate safely in a variety of weather and sea conditions. This national standard does not replace the judgment or relieve the responsibility of the vessel master related to vessel safety. The Councils, the USCG, and NMFS, through the consultation process of paragraph (d) of this section, will review all FMPs, amendments, and regulations during their development to ensure they recognize any impact on the safety of human life at sea and minimize or mitigate that impact where practicable.”

XXX

5.1.2 Other Required Provisions of MSA

Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act contains 14 additional required provisions for FMPs, which are discussed below. Any FMP prepared by any Council, or by the Secretary, with respect to any fishery, shall:

- (1) *contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are-- (A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery; (B) described in this subsection or subsection (b), or both; and (C) consistent with the National Standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;*

- (2) *contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;*

- (3) *assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;*

- (4) *assess and specify-- (A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3); (B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and (C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;*
- (5) *specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;*
- (6) *consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;*
- (7) *describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;*
- (8) *in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;*
- (9) *include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and*

management measures on-- (A) participants in the fisheries and fishing communities affected by the plan or amendment; and (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

- (10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;*
- (11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority-- (A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided;*
- (12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;*
- (13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;*
- (14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.*

5.2 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

NEPA provides a mechanism for identifying and evaluating the full spectrum of environmental issues associated with federal actions, and for considering a reasonable range of alternatives to avoid or minimize adverse environmental impacts. This document is designed to meet the requirements of both the MSA and NEPA. The Council on Environmental Quality (CEQ) has issued regulations specifying the requirements for NEPA documents (40 CFR 1500 – 1508). All of those requirements are addressed in this document, as referenced below.

To prepare the 2016-2018 Atlantic herring fishery specifications, the Council held meetings of its Scientific and Statistical Committee, Herring Plan Development Team, Herring Oversight Committee, and Herring Advisory Panel, in addition to Council meetings. All of these meetings were open to the public. Final selection of the Atlantic herring fishery specifications proposed in this document occurred at the September 2015 New England Fishery Management Council meeting.

5.2.1 Environmental Assessment

The required elements of an Environmental Assessment (EA) are specified in 40 CFR 1508.9(b). They are included in this document, in addition to other relevant sections, as follows:

- An Executive Summary (beginning of the document);
- A Table of Contents (beginning of the document);
- The need for this action is described in Section XXX;
- The alternatives that were considered are described in Section XXX;
- A description of the Affected Environment is found in Section XXX;
- The environmental impacts of the Proposed Action are described in Section XXX;
- Cumulative impacts of the Proposed Action are discussed in Section XXX;
- A Finding of No Significant Impact is provided in Section XXX (below);
- The list of preparers and agencies consulted on this action is provided in Section XXX.

5.2.2 Finding of No Significant Impact (FONSI)

National Oceanic and Atmospheric Administration Order (NAO) 216-6 (revised May 20, 1999) provides sixteen criteria for determining the significance of the impacts of a final fishery management action. These criteria are discussed below:

1. Can the Proposed Action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: The proposed action is not expected to jeopardize the sustainability of the target species affected by this action – Atlantic herring. Relative to the no action alternative, the proposed action is more conservative and is consistent with the best available scientific

information (Atlantic herring operational assessment, April 2015). Overall, based on the updated stock assessment and related recommendations provided by the Herring PDT and the SSC, the Council has concluded the Atlantic herring resource is healthy at this time (rebuilt), and the proposed action is therefore biologically-sound. The acceptable biological catch level for 2016-2018 has been endorsed by the Council's SSC.

Three-year projections provided in Section XXX of this document (p. XXX) indicate that the stock complex should XXX under the catch levels implemented through the 2016-2018 specifications. XXX Moreover, the proposed 2016-2018 Atlantic herring specifications continue to manage the fishery at reduced harvest levels when compared to historical levels.

2. Can the Proposed Action reasonably be expected to jeopardize the sustainability of any non-target species?

Response: The action proposed in the 2016-2018 Atlantic herring fishery specifications cannot reasonably be expected to jeopardize the sustainability of any non-target species that may be affected. Non-Target species are generally described in Section XXX of this document, and impacts are discussed throughout Section XXX. XXX

3. Can the Proposed Action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: The proposed 2016-2018 Atlantic herring specifications cannot be reasonably expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identifies in the FMP. EFH and habitat are generally described in Section XXX of this document, and impacts are discussed throughout Section XXX. In general, EFH that occurs in areas where the fishery occurs is designated as the bottom habitats consisting of varying substrates (depending upon species) within the Gulf of Maine, Georges Bank, and the continental shelf off southern New England and the Mid-Atlantic south to Cape Hatteras. The primary gears utilized to harvest Atlantic herring are purse seines and midwater trawls which typically do not impact bottom habitats. An evaluation of the impacts to EFH in the proposed 2016-2018 specifications package stated that XXX

4. Can the Proposed Action be reasonably expected to have a substantial adverse impact on public health or safety?

Response: Nothing in the proposed 2016-2018 Atlantic herring specifications can reasonably be expected to have a substantial adverse impact on public health or safety. When developing management measures, the Council usually receives extensive comments from affected members of the public regarding the safety implications of measures under consideration. No such impacts were expected from specifications for previous years, and the Council has received no comments from affected members of the public suggesting that such impacts could be expected from the specifications that are proposed for the 2016-2018 fishing years. The safety of human life at sea is discussed further in Section XXX of this document (National Standard 10).

- Can the Proposed Action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

Response: Protected resources that may be affected by the proposed action are generally described in Section XXX of this document, and impacts are discussed throughout Section XXX. The proposed action is not reasonably expected to have an adverse impact on endangered or threatened species, marine mammals, or critical habitat for these species. The activities to be conducted under the proposed action are within the scope of the FMP and do not change the basis for the determinations made in previous consultations. Though the proposed action may increase interactions with protected species as compared to the status quo, there is likely to be continued minimal interaction.

5. Can the Proposed Action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

UPDATE

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not expected to have a substantial impact on biodiversity and ecosystem function within the affected area. While Atlantic herring is recognized as one of many important forage fish for marine mammals, other fish, and birds throughout the region, the resource appears to be large enough at this time to accommodate all predators including Atlantic bluefish, Atlantic striped bass, and several other pelagic species such as shark and tuna. The Atlantic herring itself is not known to prey on other species of fish but prefers chaetognaths and euphausiids. Consumption of Atlantic herring by predator species was factored into the 2012 benchmark stock assessment (SAW 54, July 2012) and affected current biological reference points including MSY, as well as yield that may be available to the fishery (see Section XXX for more information). To the extent possible, the proposed 2016-2018 Atlantic herring fishery specifications account for these important issues.

The proposed action is intended to continue to ensure biodiversity and ecosystem stability over the 2016-2018 fishing years, and the proposed specifications account for scientific and management uncertainty and have been endorsed by the Council's SSC. In addition to accounting for predation through the stock assessment, the proposed buffer between the F_{MSY} -based catch level (OFL) and the U.S. OY (ACL) should ensure that an adequate forage base continues to be available for important fish, marine mammal, and bird species in the Gulf of Maine region during the upcoming years.

6. Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: A complete discussion of the potential impacts of the proposed 2016-2018 Atlantic herring fishery specifications is provided in Section XXX of this document. The environmental assessment concludes that no significant natural or physical effects will result from the implementation of the 2016-2018 Atlantic herring specifications. The proposed action is designed to implement specifications to continue to harvest the Atlantic herring resource

consistent with the definition of overfishing contained in the Atlantic Herring FMP and prevent overfishing. As described in Section XXX, the action is expected to maintain this trajectory. The action cannot be reasonably expected to have a substantial impact on habitat or protected species, as the impacts are expected to fall within the range of those resulting from previous actions addressing the management of this fishery.

NMFS has determined that despite the potential socio-economic impacts resulting from this action, there is no need to prepare an EIS. The purpose of NEPA is to protect the environment by requiring Federal agencies to consider the impacts of their Proposed Actions on the human environment, defined as "the natural and physical environment and the relationship of the people with that environment." This Environmental Assessment (EA) describes and analyzes the proposed specifications and alternatives and concludes there will be no significant impacts to the natural and physical environment. Any impacts expected from the proposed specifications do not require the preparation of an EIS, as supported by NEPA's implementing regulations at 40 C.F.R. 1508.14. Consequently, because the EA demonstrates that the action's potential natural and physical impacts are not significant, the execution of a FONSI remains appropriate under criteria 7.

7. Are the effects on the quality of the human environment likely to be highly controversial?

Response: The effects of the proposed 2016-2018 Atlantic herring specifications on the quality of human environment are not expected to be highly controversial. The need to maintain a sustainable Atlantic herring resource is grounded in Federal fisheries law and forms the basis of the goals and objectives of the herring management program, as described in the Atlantic Herring FMP. The Council developed the proposed 2016-2018 herring fishery specifications while considering the needs of herring fishery participants, other fishery-related interests, and the long-term health of the Atlantic herring resource.

8. Can the Proposed Action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas. The proposed action affects fishing for herring in the U.S. Exclusive Economic Zone and is not expected to have any impacts on shoreside historical and/or cultural resources. In addition, the proposed action is not expected to substantially affect fishing and other vessel operations around the unique historical and cultural resources encompassed by the Stellwagen Bank National Marine Sanctuary.

9. Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not expected to result in highly uncertain effects on the human environment or involve unique or unknown risks. The specifications proposed in this document are generally consistent with those adopted in past years and are based on the provisions for the specifications process outlined in the Atlantic Herring FMP. Scientific uncertainty related to the Atlantic herring stock assessment is addressed through the reduction in the F_{MSY} -based catch level to the proposed ABC level, as recommended by the Council's SSC. Management uncertainty is addressed through the reduction in the ABC to the total U.S. OY (stockwide Atlantic herring ACL). The proposed specifications account for uncertainty such that the risk of overfishing the Atlantic herring resource has been minimized to the extent practicable.

10. Is the Proposed Action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: The proposed 2016-2018 Atlantic herring specifications are not related to other actions with individually insignificant, but cumulatively significant impacts. The cumulative effects analysis presented in Section XXX of this document considers the impacts of the proposed action in combination with relevant past, present, and reasonably foreseeable future actions and concludes that no additional significant cumulative impacts are expected from the 2016-2018 Atlantic herring fishery specifications.

11. Is the Proposed Action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor is the proposed action expected to cause loss or destruction to significant scientific, cultural, or historical resources. The proposed action is specific only to the specifications and catch levels for the Atlantic herring fishery, which occurs primarily in the EEZ.

12. Can the Proposed Action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not expected to result in the introduction or spread of a non-indigenous species. The proposed action relates specifically to removals of Atlantic herring in the Northeast Region using traditional fishing practices. Vessels affected by the proposed action are those currently engaged in the Atlantic herring fishery. The fishing-related activity of these vessels is anticipated to occur solely within the Northeast Region and should not result in the introduction or spread of a non-indigenous species.

13. Is the Proposed Action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are not likely to establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. The proposed action adopts specifications for the 2016-2018 fishing years only, with flexibility for the Council to adjust the specifications during the interim years if the need arises or if new information becomes available. This action is consistent with specifications adopted in past years and is based on the provisions for the specifications process outlined in the Atlantic Herring FMP. The intent of the process is to establish specifications and other sub-ACLs for a short time frame (in this case, three years) so that new stock and fishery information can be reviewed and considered prior to making decisions about specifications in future years. The measures are designed to specifically address current stock and fishery conditions and are not intended to represent a decision about future management actions that may include other measures.

14. Can the Proposed Action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: The proposed 2016-2018 Atlantic herring fishery specifications are intended to establish catch levels that will offer protection to marine resources, particularly Atlantic herring, and would not threaten a violation of Federal, State, or Local law or other requirements to protect the environment. NMFS will determine whether this action is consistent with the Coastal Zone Management Act (CZMA) requirements of the affected States.

15. Can the Proposed Action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: As specified in the responses to the first two criteria of this section, the proposed 2016-2018 Atlantic herring specifications are not expected to result in cumulative adverse effects that would have a substantial effect on target or non-target species. As described in the sub-sections contained in Section XXX of this document, impacts on resources encompassing herring and other stocks are expected to be minimal.

In view of the analysis presented in this document, the establishment of the 2016-2018 Atlantic herring fishery specifications will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the Proposed Action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not required.

Assistant Administrator for Fisheries, NOAA

Date

5.3 MARINE MAMMAL PROTECTION ACT (MMPA)

The New England Fishery Management Council has reviewed the impacts of the proposed 2016-2018 Atlantic herring fishery specifications on marine mammals and has concluded that the management actions proposed are consistent with the provisions of the MMPA. Although they are likely to affect marine mammals inhabiting the management unit, the specifications will not alter the effectiveness of existing MMPA measures to protect those species, such as take reduction plans, based on the overall reductions in fishing effort and the effectiveness of other management measures that have been implemented through the Atlantic Herring FMP.

5.4 ENDANGERED SPECIES ACT (ESA)

Section 7 of the Endangered Species Act requires federal agencies conducting, authorizing or funding activities that affect threatened or endangered species to ensure that those effects do not jeopardize the continued existence of listed species. A description of the protected resources potentially affected by the proposed 2016-2018 Atlantic herring fishery specifications is provided in Section XXX of this document (p. XXX). For further information on the potential impacts of the fishery as well as the *Preferred Alternative* and other alternatives considered by the Council on listed species, see Section XXX of this document (p. XXX).

5.5 PAPERWORK REDUCTION ACT (PRA)

The purpose of the PRA is to control and, to the extent possible, minimize the paperwork burden for individuals, small businesses, nonprofit institutions, and other persons resulting from the collection of information by or for the Federal Government. The authority to manage information and recordkeeping requirements is vested with the Director of the Office of Management and Budget (OMB). This authority encompasses establishment of guidelines and policies, approval of information collection requests, and reduction of paperwork burdens and duplications.

The proposed Atlantic herring fishery specifications for the 2016-2018 fishing years contain no new or additional collection-of-information requirements.

5.6 INFORMATION QUALITY ACT (IQA)

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554, also known as the Data Quality Act or Information Quality Act) directed the Office of Management and Budget (OMB) to issue government-wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by federal agencies.” OMB directed each federal agency to issue its own guidelines, establish administrative mechanisms allowing affected persons to seek and obtain

correction of information that does not comply with the OMB guidelines, and report periodically to OMB on the number and nature of complaints. The NOAA Section 515 Information Quality Guidelines require a series of actions for each new information product subject to the Data Quality Act. Information must meet standards of utility, integrity and objectivity. This section provides information required to address these requirements.

Utility of Information Product

The proposed 2016-2018 Atlantic herring fishery specifications include: a description of the management issues to be addressed, statement of goals and objectives, a description of the proposed action and other alternatives/options considered, analyses of the impacts of the proposed specifications and other alternatives/options on the affected environment, and the reasons for selecting the preferred specifications. These proposed modifications implement the FMP's conservation and management goals consistent with the Magnuson-Stevens Fishery Conservation and Management Act as well as all other existing applicable laws.

Utility means that disseminated information is useful to its intended users. "Useful" means that the content of the information is helpful, beneficial, or serviceable to its intended users, or that the information supports the usefulness of other disseminated information by making it more accessible or easier to read, see, understand, obtain or use. The information presented in this document is helpful to the intended users (the affected public) by presenting a clear description of the purpose and need of the proposed action, the measures proposed, and the impacts of those measures. A discussion of the reasons for selecting the proposed action is included so that intended users may have a full understanding of the proposed action and its implications. The intended users of the information contained in this document are participants in the Atlantic herring fishery and other interested parties and members of the general public. The information contained in this document may be useful to owners of vessels holding an Atlantic herring permit as well as Atlantic herring dealers and processors since it serves to notify these individuals of any potential changes to management measures for the fishery. This information will enable these individuals to adjust their fishing practices and make appropriate business decisions based on the new management measures and corresponding regulations.

The information being provided in the 2016-2018 Atlantic herring specifications package concerning the status of the Atlantic herring fishery is updated based on landings and effort information through the 2013 and 2014 fishing years when possible. Information presented in this document is intended to support the proposed specifications for the 2016-2018 fishing years, which have been developed through a multi-stage process involving all interested members of the public. Consequently, the information pertaining to management measures contained in this document has been improved based on comments from the public, fishing industry, members of the Council, and NOAA Fisheries.

The media being used in the dissemination of the information contained in this document will be contained in a *Federal Register* notice announcing the Proposed and Final Rules for this action. This information will be made available through printed publication and on the Internet website for the Northeast Regional Office (NERO) of NOAA Fisheries. In addition, the final 2016-2018 Atlantic Herring Specifications document will be available on the Council's website

(www.nefmc.org) in standard PDF format. Copies will be available for anyone in the public on CD ROM and paper from the Council's office.

Integrity of Information Product

Integrity refers to security – the protection of information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification. Prior to dissemination, NOAA information, independent of the intended mechanism for distribution, is safeguarded from improper access, modification, or destruction, to a degree commensurate with the risk and magnitude of harm that could result from the loss, misuse, or unauthorized access to or modification of such information. All electronic information disseminated by NOAA adheres to the standards set out in Appendix III, "Security of Automated Information Resources," OMB Circular A-130; the Computer Security Act; and the Government Information Security Reform Act. If information is confidential, it is safeguarded pursuant to the Privacy Act and Titles 13, 15, and 22 of the U.S. Code (confidentiality of census, business and financial information).

Objectivity of Information Product

Objective information is presented in an accurate, clear, complete, and unbiased manner, and in proper context. The substance of the information is accurate, reliable, and unbiased; in the scientific, financial, or statistical context, original and supporting data are generated and the analytical results are developed using sound, commonly-accepted scientific and research methods. "Accurate" means that information is within an acceptable degree of imprecision or error appropriate to the particular kind of information at issue and otherwise meets commonly accepted scientific, financial, and statistical standards.

For purposes of the Pre-Dissemination Review, this document is considered to be a "Natural Resource Plan." Accordingly, the document adheres to the published standards of the Magnuson-Stevens Act; the Operational Guidelines, Fishery Management Plan Process; the Essential Fish Habitat Guidelines; the National Standard Guidelines; and NOAA Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act. Several sources of data were used in the development of this document, including the analysis of potential impacts. These data sources include, but are not limited to: landings data from vessel trip reports, landings data from individual voice reports, information from resource trawl surveys, data from the dealer weighout purchase reports, descriptive information provided (on a voluntary basis) by processors and dealers of Atlantic herring, and ex-vessel price information. Although there are some limitations to the data used in the analysis of impacts of management measures and in the description of the affected environment, these data are considered to be the best available.

This information product uses information of known quality from sources acceptable to the relevant scientific and technical communities. Stock status (including estimates of biomass and fishing mortality) reported in this document are based on either assessments subject to peer-review through the Stock Assessment Review Committee (SARC) or on updates of those assessments. Landings and revenue information is based on information collected daily VMS catch reports and VTR reports, and supplemented with state/federal dealer data. Information on catch composition and bycatch is based on reports collected by the NOAA Fisheries Service observer program and incorporated into the sea sampling or observer database systems. These

reports are developed using an approved, scientifically valid sampling process. In addition to these sources, additional information is presented that has been accepted and published in peer-reviewed journals or by scientific organizations. Original analyses in this document were prepared using data from accepted sources, and the analyses have been reviewed by members of the Herring Plan Development Team.

The 2016-2018 Atlantic herring specifications package is supported by the best available scientific information. The supporting science and analyses, upon which the proposed action is based, are summarized and described in Section XXX and Section XXX of this document. All supporting materials, information, data, and analyses within this document have been, to the maximum extent practicable, properly referenced according to commonly accepted standards for scientific literature to ensure transparency. Qualitative discussion is provided in cases where quantitative information was unavailable, utilizing appropriate references as necessary.

The review process for any action under an FMP involves the Northeast Regional Office (NERO) of NOAA Fisheries, the Northeast Fisheries Science Center (Center), and NOAA Fisheries Headquarters (Headquarters). The Council review process involves public meetings at which affected stakeholders have the opportunity to provide comments on the proposed changes to the FMP. Reviews by staff at NERO are conducted by those with expertise in fisheries management and policy, habitat conservation, protected species, and compliance with the applicable law. The Center's technical review is conducted by senior-level scientists with specialties in population dynamics, stock assessment methodology, fishery resources, population biology, and the social sciences.

Final approval of the 2016-2018 Atlantic herring specifications package and clearance of the Proposed and Final Rules is conducted by staff at NOAA Fisheries Headquarters, the Department of Commerce, and the U.S. Office of Management and Budget. This review process is standard for any action under an FMP, and provides input from individuals having various expertise who may not have been directly involved in the development of the proposed actions. Thus, the review process for any FMP modification, including the fishery specifications for the 2016-2018 fishing years, is performed by technically-qualified individuals to ensure the action is valid, complete, unbiased, objective, and relevant.

5.7 IMPACTS ON FEDERALISM/E.O. 13132

This E.O. established nine fundamental federalism principles for Federal agencies to follow when developing and implementing actions with federalism implications. The E.O. also lists a series of policy making criteria to which Federal agencies must adhere when formulating and implementing policies that have federalism implications. This action does not contain policies with federalism implications sufficient to warrant preparation of an assessment under E.O. 13132. The affected States have been closely involved in the development of the proposed fishery specifications through their representation on the Council (all affected states are represented as voting members of at least one Regional Fishery Management Council) and coordination with the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council.

5.8 ADMINISTRATIVE PROCEDURES ACT (APA)

This action was developed in compliance with the requirements of the Administrative Procedures Act, and these requirements will continue to be followed when the proposed regulation is published. Section 553 of the Administrative Procedure Act establishes procedural requirements applicable to informal rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process, and to give the public adequate notice and opportunity for comment. At this time, the Council is not requesting any abridgement of the rulemaking process for this action.

5.9 COASTAL ZONE MANAGEMENT ACT (CZMA)

Section 307(c)(1) of the Federal CZMA of 1972 requires that all Federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. Pursuant to the CZMA regulations at 15 CFR 930.35, a negative determination may be made if there are no coastal effects and the subject action: (1) Is identified by a state agency on its list, as described in § 930.34(b), or through case-by-case monitoring of unlisted activities; or (2) which is the same as or is similar to activities for which consistency determinations have been prepared in the past; or (3) for which the Federal agency undertook a thorough consistency assessment and developed initial findings on the coastal effects of the activity. The Council has determined that this action is consistent with the coastal zone management plan and policies of the coastal states in this region. NMFS will formally request consistency reviews by CZM state agencies following Council submission of Framework 2 and the 2013-2015 Atlantic herring fishery specifications.

5.10 REGULATORY FLEXIBILITY ACT (RFA)/E.O. 12866 (REGULATORY PLANNING AND REVIEW)

5.10.1 Regulatory Flexibility Act (RFA) – Initial Regulatory Flexibility Analysis

5.10.2 E.O. 12866 (Regulatory Planning and Review)

5.11 E.O. 13158 (MARINE PROTECTED AREAS)

The Executive Order on Marine Protected Areas requires each federal agency whose actions affect the natural or cultural resources that are protected by an MPA to identify such actions, and, to the extent permitted by law and to the extent practicable, avoid harm to the natural and cultural resources that are protected by an MPA. The E.O. defines a Marine Protected Area as “any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.” The E.O. requires that the Departments of Commerce and the Interior jointly publish and maintain such a list of MPAs. The Tilefish Gear Restricted Areas in Oceanographer, Lydonia, Veatch, and Norfolk canyons are included in the National System of Marine Protected Areas (MPAs). This action under the Atlantic Herring FMP is not expected to occur within any of these MPAs. No further guidance related to this Executive Order is available at this time.

5.12 E.O 12898 (ENVIRONMENTAL JUSTICE)

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations provides guidelines to ensure that potential impacts on these populations are identified and mitigated, and that these populations can participate effectively in the NEPA process (EO 12898 1994). These individuals or populations must not be excluded from participation in, denied the benefits of, or subjected to discrimination because of their race, color, or national origin. Although the impacts of the Atlantic herring specifications may affect communities with environmental justice concerns, the actions in this document should not have disproportionately high effects on low income or minority populations. The proposed measures would apply to all participants in the affected area, regardless of minority status or income level.

The existing demographic data on participants in the Atlantic herring fishery (i.e. vessel owners, crew, dealers, processors, employees of supporting industries) do not allow identification of those who live below the poverty level or are racial or ethnic minorities. Thus, it is not possible to fully determine how the actions within this specification document may impact these population segments. The public comment processes is an opportunity to identify issues that may be related to environmental justice, but none have been raised relative to the 2016-2018 Atlantic herring specifications. The public has never requested translations of documents pertinent to the Atlantic herring fishery.

6.0 REFERENCES

- ASMFC. 2015. Fisheries Focus. Arlington (VA): Atlantic States Marine Fisheries Commission. 24(1) February/March 2015.
- Burdge RJ. 1998. A Conceptual Approach to Social Impact Assessment. Revised ed. Madison, WI: Social Ecology Press. 284 p.
- Clay PM, Colburn LL, Olson J, Pinto da Silva P, Smith SL, Westwood A, Ekstrom J. Community Profiles for the Northeast U.S. Fisheries. August 22, 2012. Woods Hole

(MA): Northeast Fisheries Science Center; Available from:
<http://www.nefsc.noaa.gov/read/socialsci/communityProfiles.html>.

Dayton A, Sun JC, Larabee J. 2014. Understanding Opportunities and Barriers to Profitability in the New England Lobster Industry. Portland, ME: Gulf of Maine Research Institute. 19 pp.

NEFMC. 2015. Science and Statistical Committee report, May 29, 2015. Newburyport, MA 5 p.

NMFS. 2007. Guidelines for Assessment of the Social Impact of Fishery Management Actions. In: NMFS Council Operational Guidelines - Fishery Management Process. Silver Spring, MD: National Oceanic and Atmospheric Administration. 39 p.

NMFS. 2009. NMFS National Standards Guidelines. 50 CFR 600310 et seq.

7.0 LIST OF PREPARERS AND AGENCIES CONSULTED

This document was prepared by the New England Fishery Management Council and the National Marine Fisheries Service, in consultation with the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council. Members of the New England Fishery Management Council's Herring Plan Development Team include:

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The following agencies were consulted during the development of the 2013-2015 Atlantic Herring Specifications, either through direct communication/correspondence and/or participation on the Herring Committee or Herring PDT:

- NOAA Fisheries, National Marine Fisheries Service, Greater Atlantic Regional Office, Gloucester MA

- Northeast Fisheries Science Center, Woods Hole MA
- Atlantic States Marine Fisheries Commission and Atlantic Herring Section
- Mid-Atlantic Fishery Management Council