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GOVERNOR

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OFFICE OF THE GOVERNOR  
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AUGUSTA, MAINE  
04333-0001

July 6, 2020

The Honorable Wilbur Ross, Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, D.C. 20230

Dear Secretary Ross,

The State of Maine is formally requesting a declaration of fishery failure in the Area 1A Atlantic herring fishery under Section 312(a) for the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §1816). Atlantic herring is a critical and historic fishery in the state of Maine. Although there is a rich history of herring processing in Maine for the canned food market, in recent years, herring landed in Maine has gone to the bait market to support the state's iconic lobster fishery. Recently, Atlantic herring experienced a fishery resource disaster as evidenced by the results of the 2018 benchmark stock assessment which indicated a substantial decrease in spawning stock biomass (SSB)<sup>1</sup>. This has precipitated serious disruptions in the Area 1A herring fishery and had statewide impacts due to the importance of herring for lobster bait.

The 2018 Atlantic herring benchmark stock assessment highlighted concerning trends in the herring resource. In particular, the assessment highlighted five consecutive years of extremely low recruitment, with four of the lowest recruitment estimates occurring since 2013 (2013, 2015, 2016, 2017) (Figure 1). The assessment also indicated a substantial reduction in SSB, declining from 623,000 mt in 2014<sup>2</sup> to 141,473 mt in 2017. This represents a 77% reduction in spawning potential for the Atlantic herring stock and a stark difference from the results of the previous stock assessment.

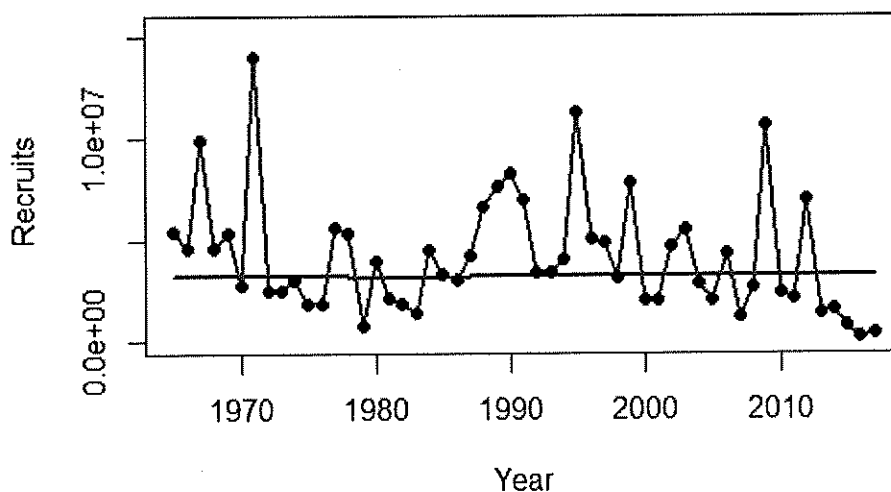
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<sup>1</sup> Northeast Fisheries Science Center (NEFSC). 2018. 65th Northeast Regional Stock Assessment Workshop (65th SAW) Assessment Report. US Dept Commerce, Northeast Fish Sci Cent Ref Doc. 18-11; 659p.

<sup>2</sup> Deroba J. 2015 Atlantic herring operational assessment reporting 2015. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 15-16; 30p.



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**Figure 1:** Atlantic herring annual recruit (000s) time series, 1965 – 2017. The horizontal line is the average over the time series. [Source: 65<sup>th</sup> Northeast Regional Stock Assessment Workshop<sup>1</sup>.]

In response to the stock assessment, NOAA Fisheries took in-season action in 2018 to reduce the Atlantic herring Annual Catch Limit (ACL) from 110,536 mt to 49,000 mt. This was done to ensure that harvest in the 2018 fishing year did not result in an overfishing status. Additional action was taken in 2019 to further reduce herring catch limits in response to the poor stock status. Under the current specifications for the Atlantic herring fishery, detailed in Framework Adjustment 6 to the Atlantic Herring Fishery Management Plan, the sub-ACL for Area 1A was set at 4,354 mt for 2019 and 3,344 mt for both 2020 and 2021<sup>3</sup>. For context, the Area 1A sub-ACL implemented for fishing years 2016-2018 was 30,300 mt<sup>4</sup>. As a result, sub-ACLs in 2019 and 2020-2021 represent an 85.6% and 89.0% reduction in quota, respectively.

### *Area 1A Commercial Fishery Characteristics*

Atlantic herring is a federal fishery, jointly managed by the New England Fishery Management Council (NEFMC) and the Atlantic States Marine Fisheries Commission (ASMFC). The Area 1A fishery is split into two seasons: January through May, in which no quota is allocated; and June through December, in which 100% of the quota is allocated. Additionally, a gear restriction prohibits midwater trawling in Area 1A from June through September, annually. Atlantic herring limited access Category A and Category C permits are both active in the Area 1A fishery and are the permit categories used for the analysis in this letter. Maine has a total of 12 federally-permitted vessels. While the fishery is prosecuted in both state and federal waters, this request is focused on the federal portion of the fishery only.

As a result of the poor condition of the stock, the preliminary estimate of Atlantic herring landings in Maine ports has decreased by 83% from the five-year average of 25,127 mt (2014 to 2018) to 4,253 mt in 2019. Further, during the 2019 season, there were only nine weeks during which Atlantic herring were landed in Maine ports (Table 1). This is despite management measures implemented through the

<sup>3</sup> 85 FR No. 18: 4932. Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Framework Adjustment 6 and the 2019–2021 Atlantic Herring Fishery Specifications.

<sup>4</sup> 81 FR No. 119: 40253. Fisheries of the Northeastern United States; Atlantic Herring Fishery; Specification of Management Measures for Atlantic Herring for the 2016–2018 Fishing Years.



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ASMFC's Days Out Program intended to spread quota throughout the year to meet bait demands of the lobster fishery. For reference, in the five years prior, the average duration of the Area 1A fishery was 23 weeks, with 2017 having the highest record of activity at 29 weeks of Atlantic herring landings. This truncation of the Area 1A fishery and reduction in herring landings reflects the loss of harvest opportunity and, ultimately, revenue associated with the fishery. The 5-year average ex-vessel value for Atlantic herring from 2014 to 2018 is estimated at \$12.0 million, using revenue data derived from Maine DMR dealer reports. For 2019, the preliminary ex-vessel value is \$4.1 million. This represents a 66% decrease in value for the Atlantic herring fishery in Maine.

**Table 1:** Annual landings of Atlantic herring from Area 1A landed in Maine ports (source: VTR reports). The price per pound value is derived through Maine DMR dealer data. The number of weeks showing landing activity assumes a landing above 1 mt (directed fishing trip) during the harvest season.

Year	MT	Pounds	Value	Price/pound	# Weeks Landing Activity
2014	30,134.6	66,416,708.0	\$10,626,673.3	\$0.16	22
2015	24,151.5	53,229,850.5	\$8,516,776.1	\$0.16	19
2016	26,903.9	59,296,125.5	\$14,824,031.4	\$0.25	22
2017	22,093.1	48,693,094.1	\$13,147,135.4	\$0.27	29
2018	22,595.1	49,799,571.3	\$13,445,884.3	\$0.27	26
2019	4,252.8	9,373,265.8	\$4,124,236.9	\$0.44	9

### *Commercial Fishing Community*

Most of the herring vessels homeported in Maine are purse seiners, primarily targeting Atlantic herring. Traditionally, some herring vessels homeported in the state used midwater trawl gear and focused their directed Atlantic herring fishing in Area 3 between June and September when the midwater trawl gear prohibition in Area 1A was in effect; these vessels would return to Area 1A in October. In recent years, due to poor stock conditions in Area 3, many midwater trawl vessels have opted to switch over to purse seine gear in order to participate in the Area 1A fishery throughout the year. While some vessels are owner-operated, most retain captains and utilize a 4- to an 8-man crew for daily fishing operations, dependent on vessel size. Although a conservative estimate, approximately 75 persons participate in the harvesting of Atlantic herring in Area 1A.

The affected fishing community also encompasses shoreside operations within the Atlantic herring fishery including wharf offload sites, transportation companies, and processing and distribution facilities. The reduction in Atlantic herring landings also has broader impacts within the state because of the importance of herring as the primary and preferred bait source for the American lobster fishery. The reduction in the ACL has constrained the number of landing ports to only four, down from eleven regular landing ports that have been traditionally utilized in recent years. The result of this reduction is an adverse impact on the shoreside infrastructure that served the herring fleet in those communities, as well as reduced access to the bait market for more remote lobster fishing ports.



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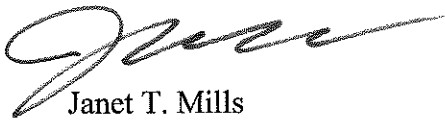
## *Commercial Fishery Failure*

The 2019-2021 Atlantic herring specifications indicate a minimum three-year period for severe reductions in sub-ACL for Area 1A. Thus, the estimated 66% reduction in ex-vessel value of Maine's Area 1A Atlantic herring fishery in 2019 will continue into 2020 and 2021. This trend is likely to be extended given the depressed level of SSB will affect future Atlantic herring production beyond that of the current specifications and will continue to disrupt the fishery. In fact, preliminary results from the 2020 Atlantic herring stock assessment show continued levels of poor recruitment, with the assessment concluding the Atlantic herring stock is overfished. Preliminary projections indicate that additional declines in the Atlantic herring ABC, and subsequently in the Area 1A sub-ACL, will occur based on the NEFMC's control rule. Given the loss of activity associated with the harvesting of Atlantic herring will result in year-round deficits of primary income and job security for successive fishing seasons, the State of Maine is seeking a commercial fishery failure declaration.

It is critical to preserve our Atlantic herring fishery, and the many communities that rely on it. This fishery is intrinsically linked to multiple facets of Maine's working waterfront and coastal economy; however, it is unclear how it will persevere during the next few years of anticipated minimal quota. The expected reduced ACL for FY 2019 through 2021, and possibly beyond, will have drastic negative impacts to Maine and our fishermen.

The Maine Department of Marine Resources is committed to working cooperatively with your department on this matter and is ready to assist your staff with the evaluation of this request. Please let us know what additional information you may require. Department of Marine Resources Commissioner Patrick Keliher can be reached at 207-624-6553 or by email at: [Patrick.Keliher@maine.gov](mailto:Patrick.Keliher@maine.gov).

Sincerely,



Janet T. Mills  
Governor

cc Chris Oliver, Assistant Administrator, NOAA  
Mike Pentony, Regional Administrator, Greater Atlantic Regional Fisheries Office



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