

requirements for vessel, dealer, and processor permits and reporting requirements. A control date of September 16, 1999, was established for the Atlantic herring fishery in Federal waters (64 FR 50266, September 16, 1999).

Additional measures for the Federal Herring FMP are being considered for two reasons: (1) a new stock assessment for herring is available; and (2) the Council made a commitment to consider limited or controlled access in the herring fishery shortly after developing the Herring FMP.

In February 2003, the Transboundary Resource Assessment Committee (TRAC), composed of both U.S. and Canadian scientists, met in St. Andrew's, New Brunswick, to undertake a joint peer review of the status of the transboundary herring resource and to provide collective guidance for fisheries managers to consider. The TRAC assessment will be used in considering possible adjustments to the FMP, which may include changes to the herring overfishing definition and its associated reference points, revisions to the estimates of maximum sustainable yield (MSY) and optimum yield (OY) for the herring fishery, adjustments to management areas, and/or adjustments to area-specific TAC calculations. The Herring Plan Development Team (PDT) will review the TRAC information and provide technical guidance on these and other issues as the development of this amendment proceeds.

While the overall TAC for herring is more than twice recent landing levels, the TAC in the inshore Gulf of Maine (Area 1A) represents more than 60 percent of the total landings and has triggered a closure of the herring fishery in this area every year. Some fishermen believe that harvesting capacity in this area should be restricted to avoid problems that result from excess fishing capacity. One of these problems is a "race to fish" as increasing numbers of vessels try to catch the TAC before the others. Besides generating inefficiencies, the available TAC in this area will likely continue to be taken before the fishing year is over. This can disrupt the supply of herring for various markets and affect stability in the fishery.

Management of a number of fisheries in the Northeast Region is complicated by excess fishing capacity which makes it difficult to reduce fishing mortality to levels necessary for stock rebuilding. In order to avoid the problems experienced in these fisheries, there is interest in developing a limited access system for the herring fishery to possibly address existing capacity problems in Area 1A

and avoid such problems in other areas as the fishery continues to develop.

In July 1999, the Council made a formal commitment to develop a limited or controlled access program for the herring fishery. Scoping meetings were conducted in early 2000, and comments were sought on limited/controlled access in the herring fishery, particularly in Area 1A. At that time, concern about excess capacity was focused on Area 1A, as Areas 2 and 3 (southern New England and Georges Bank) could support increased fishing effort and additional capacity in the fishery. However, some new markets have emerged, additional harvesting and processing capacity has developed, and catches from Areas 2 and 3 have increased somewhat, suggesting that capacity concerns in these areas may be different than they were in 2000. For this reason, the Council may consider a limited access program for all herring management areas.

This amendment may address one or more of the following issues:

1. According to the best available scientific information, overfishing is not occurring on the herring resource at this time, but may occur in the future if effort and capacity are not monitored and controlled in a proactive manner.
2. Allocation issues have arisen since the establishment of the TACs in the herring fishery, and these issues should be examined and minimized to the extent practicable (examples include the race to fish and gear conflicts resulting from the TACs).
3. Interactions of herring with other species and other fisheries are becoming increasingly important, especially as all stocks in the Northeast Region continue to increase. These interactions and their associated impacts should be examined so that negative impacts can be minimized where possible and appropriate.

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Measures Under Consideration

At this time, the Council is seeking comments on a wide range of management measures it is considering to address a range of issues. The measures under consideration include, but are not limited to, the following:

Limited Access

One or more kinds of permits may be issued to vessels fishing in one or more of the management areas. Qualification criteria for limited access permits could take many different forms. For example, qualification criteria could be based on catch levels over a particular period of time, possession of another permit, future performance in the fishery, or any combination of these standards.

If the Council does develop a limited access program in this amendment, it may develop separate qualifying criteria for the directed herring fishery and the incidental catch herring fishery. The Council also may consider a quota-based limited access program for participants in the herring fishery. Under such a program, TACs for herring could be specifically allocated to a limited number of individuals or entities. This allows the individuals or entities to be responsible for controlling their own capacity and harvesting their share of the resource in a way that maximizes their economic benefits and the overall benefits to the fishery. Some examples of quota-based programs that may be considered include Individual Fishing Quotas (IFQs), group quota shares, and community quota shares.

In addition to establishing some kind of limited access program, the Council will consider the "no action alternative;" that is, to allow the herring fishery to remain an open-access fishery. Consideration of the no action alternative is a legal requirement and is based on the fact that domestic catches are currently less than one-half the overall TAC. New markets and additional harvesting capacity to fully utilize the herring resource are currently being examined for the herring fishery. In addition, an open access system provides the most flexibility to fishermen to move into the herring fishery as an alternative to other fisheries.

Other Effort Controls

A limited access program by itself may or may not address potential capacity problems in the herring fishery, especially in Area 1A. For this reason, the Council is considering and seeking comments on other types of effort controls for the fishery, if necessary. These include, but are not limited to, the following:

1. *Vessel Upgrade Restrictions*—Restrictions on the overall size and capacity of herring vessels is already included in the FMP. However, additional restrictions on the ability of herring vessels to upgrade (increase their size and/or horsepower) may be an effective tool for controlling existing capacity in the fishery.

2. *Trip Limits*—Trip limits may slow down the race to fish and prevent early closure of the fishery, especially in Area 1A. For the herring fishery, it would be important to consider the high-volume nature of the directed fishery and the need to minimize regulatory discarding.

3. *Days at Sea (DAS) for the Herring Fishery*—Limits on the number of days that vessels can fish for herring is