



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
C.M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

DRAFT MEETING SUMMARY

Herring Committee Meeting

Holiday Inn, Peabody, MA
June 4, 2013

The Herring Committee met on June 4, 2013 in Peabody, MA to review available information and discuss the development of Framework 3 (Fw 3) to the Atlantic Herring Fishery Management Plan (FMP). The purpose of Framework 3 is to consider options for catch caps for river herring and/or shad (RH/S) in the Atlantic herring fishery.

Meeting Attendance: Doug Grout, Herring Committee Chairman, Frank Blount, David Pierce, Mary Beth Tooley, Mark Gibson, Terry Stockwell, Peter Kendall; Erling Berg, Mark Gibson, Matt McKenzie, Vincent Balzano and Howard King (Herring Committee members); Lori Steele and Rachel Neild, (NEFMC staff); Melissa Yuen, ASMFC Staff; Carrie Nordeen and Mitch McDonald (NOAA NERO); Jeff Kaelin, (Herring Advisory Panel Chairman); Matt Cieri (ME DMR), Erica Fuller (Earthjustice), Dave Ellenton (Cape Seafoods), Patrick Paquette (Mass. Striped Bass Association), and several other interested parties.
Webcast: Roger Fleming (Earthjustice).

Discussion of Issues Related to Framework 3

Following a brief round of introductions and a general review of the agenda, Ms. Steele summarized the major elements of the May 23, 2013 Joint NEFMC Herring Plan Development Team (PDT)/Mid-Atlantic Council Mackerel Squid Butterfish (MSB) Monitoring Committee meeting. She described issues related to the overlap between the Atlantic herring and mackerel fisheries and the concurrent processes to develop the catch caps (Mid-Atlantic Council 2015 MSB specifications package and NE Council Fw 3). She noted that because of the timing associated with the two processes and the schedule for final decision-making, it is likely that 2014 and 2015 will be "transition years" for the two catch caps that may be applied in the overlapping areas for the mackerel and herring fisheries (southern New England, Area 2 herring fishery). Fw 3 would likely specify catch cap amounts for the herring fishery for 2014 and 2015, with implementation sometime during the 2014 fishing year. The MSB specifications will include a river herring/shad (RH/S) catch cap for the 2014 mackerel fishery, and the MA Council will consider a 2015 cap during the MSB specifications process in 2014. There will be an opportunity for the two Councils to better align the catch caps in the overlapping areas for the 2016 fishing year and beyond. The Herring PDT/MSB MC recommends that the two Councils consider developing a joint catch cap for the overlapping area (Southern New England/Area 2 herring fishery). For these reasons, Ms. Steele recommended that the Committee/Council build

flexibility into the Fw 3 provisions to allow modifications to the catch caps to occur more expeditiously in the future, including development of a joint herring/mackerel fishery cap for the southern New England area.

Ms. Steele noted that observer data provided in Amendment 5 are being updated for the most recent five years (2008-2012) for Category A, B and C vessels and that the Herring PDT will be utilizing these data to develop the analysis of the catch caps proposed in Fw 3. The Herring PDT/MSB MC recommends that the Council consider identifying a landings threshold (pounds of herring) for trips that would be subject to the catch cap. The PDT suggested that trips landing greater than 3 mt (6,600 lbs) of herring may be appropriate since that is possession limit for open access herring permits. Vessels landing more than 3 mt of herring must possess a herring limited access permit. This threshold is consistent with the intent of Amendment 5 (to apply measures to address river herring bycatch to limited access herring vessels). There are concerns among the technical groups (PDT and MSB MC) about setting the catch cap too high or too low because there currently is no way to link the catch cap amount to river herring biomass or fishing mortality. It is therefore also not possible to quantify the impacts of the catch caps on the river herring and shad stocks.

The Committee briefly discussed how the catch cap would be monitored during the fishing year; NMFS NERO staff confirmed that the methodology would likely be based on the existing methodology for the haddock and butterfish catch caps in the herring and mackerel fisheries and that any further details would be developed during the Fw 3 implementation. Some Committee members expressed concern about the monitoring methods, citing recent experiences under the haddock catch cap during the early part of the year when few observed trips exist on which to base the discard ratio. NERO staff noted that these methods are expected to be formally reviewed this summer, and the Committee encouraged the NERO to include issues related to monitoring a river herring/shad catch cap in this review. The Committee again expressed that developing a catch cap with a largely unknown stock component and high variability can create major difficulties. The reviewers should therefore consider possible approaches to addressing this kind of variability.

Discussion of Goals/Objectives for Framework 3

The Committee discussed the goals/objectives for the catch caps that may be developed in Fw 3 and emphasized the need for continued cooperation with the herring fleet and the MAFMC to best address this issue over the long-term. A discussion ensued about whether including shad in the Fw 3 catch cap options would be a legal concern based on the language included in Amendment 5 (which was specific to establishing catch caps for river herring through a framework adjustment); this issue will be explored further by both NOAA/NMFS and the NEFMC staff.

There was general consensus among the Herring Committee members that the overall goal of the catch caps established in Fw 3 would be to not allow river herring incidental catch to increase. The importance of the SMAST/SFC/MA DMF industry bycatch avoidance program was noted, and the linkage between this framework action and the measures proposed in Amendment 5 was acknowledged. The Committee then agreed to develop more specific language to clarify the Fw 3 goals/objectives.

1. COMMITTEE MOTION: ERLING BERG / PETER KENDALL

The goal of Framework 3 is to establish a process for setting RH/S catch caps in the Atlantic herring fishery to achieve the following objectives:

- Provide incentive for the industry to continue to avoid river herring to the extent possible
- Ensure coordination with the MA Council to address overlapping fisheries
- Promote flexibility to adjust the cap in the future as more information becomes available

Discussion on the Motion: Some Committee members expressed concern about including shad in the language of this motion because of the issues raised regarding the Amendment 5 language and the Council's intent regarding consideration of catch caps in this framework. However, there were also some Committee members who felt that shad was adequately considered through the bycatch evaluation in Amendment 5 and that the intent to have shad included in the framework process was evident based on Committee/Council discussion and correspondence with the MA Council during the development of Amendment 5.

1A. MOTION TO AMEND: DAVID PIERCE / MATT MCKENZIE

To change the motion to the following:

The goal of FW 3 is to establish a process for setting RH/S catch caps in the Atlantic herring fishery to achieve the following objectives:

- Provide *strong* incentive for the industry to continue to avoid RH/S *and reduce RH/S catch*
- Enhance coordination with the MA Council to address overlapping fisheries
- Promote flexibility to adjust the cap in the future as more information becomes available

Further Discussion on the Motion: There was some general discussion about the wording of the motion to amend, including consideration of adding the language "*to the extent possible*" but this was not accepted as a friendly amendment to the motion to amend.

1B. MOTION TO AMEND THE MOTION TO AMEND: TERRY STOCKWELL/MARYBETH TOOLEY

To change the motion to the following:

The goal of FW 3 is to establish a process for setting RH/S catch caps in the Atlantic herring fishery to achieve the following objectives:

- Provide *strong* incentive for the industry to continue to avoid RH/S *and reduce RH/S catch to the extent possible*
- Enhance coordination with the MA Council to address overlapping fisheries
- Promote flexibility to adjust the cap in the future as more information becomes available

Further Discussion on the Motion: There was concern about using the term “incentive” because it is not looked at as desirable in this context.

MOTION 1B TO AMEND THE MOTION TO AMEND CARRIED 8-1-1.

MOTION 1A TO AMEND THE MAIN MOTION CARRIED 9-1-0.

MOTION #1 AS AMENDED (TWICE) CARRIED UNANIMOUSLY.

The Herring Committee therefore recommends that the language in Motion 1B reflect the goals and objectives for Fw 3.

2. COMMITTEE MOTION: DAVID PIERCE/MATT MCKENZIE

Recommend that the Council clarify its intent to establish catch caps for river herring and shad species combined

Discussion on the Motion: Ms. Steele asked for clarification. Some Committee members felt more comfortable recommending that separate shad and river herring catch caps be considered due to the uncertainty surrounding the provisions related to considering catch caps for shad in Amendment 5. Dr. Pierce stated that his intent is to confirm that both river herring and shad catch caps could be considered in this framework adjustment, but the motion is not intended to address whether or not separate caps for these species should be developed in Framework 3. It was also noted that the Mid-Atlantic Council is considering a combined cap for these species at this time. Ms. Steele recommended that, separate from the Amendment 5 issue, provisions be included to allow caps for individual species to be developed in the future.

2A. MOTION TO SUBSTITUTE: TERRY STOCKWELL/ VINCENT BALZANO

Recommend that the Council task the Herring PDT to develop separate river herring and shad catch caps

Further Discussion on the Motion: Several Committee members expressed concern about this motion and suggested that this may not be the most appropriate approach given available information.

MOTION #2 TO SUBSTITUTE FAILS (3/6/1).

MAIN MOTION #2 PERFECTED: DAVID PIERCE/MATT MCKENZIE

Recommend that the Council clarify its intent that the provision in Amendment 5 to establish catch caps for river herring through a framework adjustment applies to both river herring and shad

PERFECTED COMMITTEE MOTION #2 CARRIED (8/2/0).

3. COMMITTEE MOTION: MOTION DAVID PIERCE/TERRY STOCKWELL

Recommend to add the river herring/shad catch cap species to the list of items that could be modified in the future through a framework adjustment or the fishery specifications process

Discussion on the Motion: The Herring Committee acknowledged that this motion may be repetitive, but the intent of this motion is to establish a clear record. A majority of the Committee also emphasized the need for coordination with the MAFMC and felt that this approach achieves that objective.

COMMITTEE MOTION #3 CARRIED UNANIMOUSLY.

The Committee briefly considered what threshold of herring landings should be considered to identify trips that would be subject to the catch cap. Most Committee members felt comfortable with >6,600lbs suggested by the Herring PDT/MSB Monitoring Committee (>3 mt, consistent with the possession limit for the Category D open access permit). Ms. Steele explained that the Category D herring permit holders usually represent 1% or less of total herring landings and are not targeting herring. Mr. Kaelin asked whether >20,000 pounds of herring may be an option to consider, consistent with the possession limit for the new herring permit that may be established in Amendment 5 for limited access mackerel vessels. This is also the threshold that the Mid-Atlantic is considering for identifying Atlantic mackerel trips that may be subject to a RH/S catch cap. Overall, though, Mr. Kaelin expressed support for the 6,600-pound option.

4. COMMITTEE MOTION: DAVID PIERCE/PETE KENDALL

That the river herring/shad catch cap apply to all trips landing more than the open access possession limit of 6,600 pounds of Atlantic herring

Discussion on the Motion: The Committee noted that this would be consistent with the PDT/MC recommendations. The Committee expressed concerns about the potential for “double counting” on trips that may be subject to two RH/S catch caps (Atlantic herring and Atlantic mackerel fisheries) and emphasized the importance of coordination. Ms. Steele acknowledged that the Herring PDT will evaluate this more thoroughly in the Framework 3 Environmental Assessment (EA).

COMMITTEE MOTION #4 CARRIED (9/1/0)

Mr. Grout suggested that the Committee consider the options for allocating the catch caps by area. The Herring PDT/Mackerel MC Report generally presents two potential options (in addition to an option that could be developed to apply the catch cap across all areas): (1) a statistical-area based option developed by the PDT in Amendment 5, which would establish separate caps for the Gulf of Maine, Area 521 (Cape Cod), and the southern New England statistical areas, with no cap in the offshore Georges Bank statistical areas; and/or (2) a herring management area-based option, which would establish separate caps for each of the four herring management areas 1A, 1B, 2, and 3). Some Committee members expressed concern about these options and felt that applying caps in larger areas may affect some sectors of the fishery that encounter RH/S less.

5. COMMITTEE MOTION: TERRY STOCKWELL/MATT MCKENZIE

That the catch cap areas for the Atlantic herring fishery be analyzed by statistical area, season, and gear type

Discussion on the Motion: Mr. Stockwell felt that considering the caps in smaller areas and by season and gear type may allow for a more equitable approach. Dr. Cieri reminded the Committee that there was great variability within the data when disaggregated by statistical area, season, and gear type, as shown in Amendment 5, which is why the data were combined on a larger scale when catch caps were considered in Amendment 5. He noted that at that level of disaggregation, some strata may produce zero observations and/or zero observed bycatch, resulting in no data on which to base a catch cap. Additionally, this analysis was time-consuming and intensive in Amendment 5 and would likely not be completed within the time frame anticipated for Framework 3. Ms. Steele reiterated that this analysis was provided in several forms by the Herring PDT during the development of Amendment 5 (by 10-minute squares and statistical areas); evaluation of the data at this level led the Herring PDT, Herring Committee and Council to recommend a simpler approach that focused on the collection of better catch information and industry-based bycatch avoidance. She encouraged the Committee to develop options for Framework 3 that are consistent with the goals and objectives recommended by the Committee at this meeting. Some Committee members expressed concern about statistical areas 521 and 526. Ms. Steele noted that the Herring PDT area-based approach addresses 521 separately and may be more appropriate to consider.

COMMITTEE MOTION #5 CARRIED UNANIMOUSLY.

After a short break to discuss the previous motion, a motion to reconsider was made.

6. COMMITTEE MOTION: MATTMCKENZIE/FRANK BLOUNT

TO RECONSIDER THE PREVIOUS MOTION:

That the Catch cap areas for the Atlantic herring fishery be analyzed by statistical area, season, and gear type

Discussion on the Motion: Concern was expressed about delaying the framework action to generate the analysis proposed by the motion. The importance of improving data to develop effective catch caps was noted. Mr. Stockwell acknowledged the concerns and suggested that the issue be revisited at the Council meeting.

COMMITTEE MOTION # 6 TO RECONSIDER FAILED (2/7/0).

7. COMMITTEE MOTION: PETER KENDALL /TERRY STOCKWELL

To recommend to the Council that the PDT analyze options for catch caps based on the herring management areas

Discussion on the Motion: The Committee again agreed to discuss this issue further at the Council Meeting.

COMMITTEE MOTION #7 CARRIED UNANIMOUSLY.

Measures That Become Effective when the Catch Cap is Reached

The Committee discussed the measures that would become effective when a catch cap is reached and generally agreed to further consider the options discussed in the May 23, 2013 Herring PDT/MSB Monitoring Committee Meeting.

Ms. Steele suggested that the Committee consider whether provisions should be established for catch cap overage paybacks or carryovers. She noted that catch caps are not legally considered annual catch limits and therefore do not require accountability measures to address overages; the provisions described above are considered to be accountability measures (although not legally) to prevent the catch cap from being exceeded. She also noted that the biological impact of any overages and underages cannot be determined at this time, without a way to link the cap to RH/S biomass or fishing mortality. Ms. Nordeen clarified that the haddock catch cap currently includes an overage payback but no carryover provisions. Mr. Grout suggested that provisions for overages and underages may be something to consider in the future through a framework adjustment, as better information becomes available.

Herring Committee Consensus – *add provisions for overages and underages to the list of measures to be implemented by a framework adjustment in the future.*

The Herring Committee agreed that Herring Advisory Panel participation would occur either prior to or in conjunction with the next Committee meeting, sometime prior to the September 2013 Council Meeting, where the Council is scheduled to select the final measures for Framework 3.