



## New England Fishery Management Council

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### **DRAFT REPORT**

## **HERRING ADVISORY PANEL MEETING**

Coco Key Hotel, Danvers MA

Thursday, September 22, 2011

**Meeting Attendance:** Doug Grout, Herring Committee Chair; Gib Brogan, Al West, Peter Baker, Don Swanson, Chris Weiner, Jeff Kaelin, Vito Calomo, Peter Mullen, NEFMC Herring AP members (8 of 14 advisors present, Dave Turner, Jennie Bichrest, Spencer Fuller, Jeff Reichle absent); Lori Steele, Talia Bigelow, NEFMC Staff; Madeleine Hall-Arber (MIT Sea Grant), and several other interested parties.

The Herring Advisory Panel met on September 22, 2011 to review/discuss the management measures under consideration and the Draft Environmental Impact Statement (DEIS) for Amendment 5 to the Herring Fishery Management Plan (FMP) and to develop related AP comments/recommendations. Mr. Grout, Herring Committee Chairman, chaired the Advisory Panel meeting because the Advisory Panel Chairman and Vice Chairman were unable to attend.

### ***SAW/SARC 54 Terms of Reference (TOR)***

The Herring Advisory Panel reviewed the draft Terms of Reference (TORs) for the upcoming benchmark stock assessment for Atlantic herring, scheduled for SAW/SARC 54 in June 2012. Mr. Kaelin emphasized the need for the stock assessment to clearly characterize catch/mortality of herring from fishing in the context of other sources of mortality and total consumption. He referenced some recent work from NEFSC scientists (Fogarty, Cadrin) as well as a chart in *Ecology of the New England Continental Shelf*. He suggested that it would be helpful to let the public know that the Agency is considering consumption and that fishing represents a small component of total mortality. He also suggested that Council staff consider adding that graph to the Amendment 5 document.

### ***Amendment 5 Draft EIS***

Ms. Steele presented an overview of the Draft Amendment 5 EIS document. Following the presentation, the advisors made several comments and asked several questions:

- Mr. Westcott asked some clarifying questions about Category D vessels and the options under consideration to allow limited access mackerel vessels with open access herring permits to increase their herring possession limit. Mr. Kaelin added that the option for a 20,000 pound possession limit is consistent with the mackerel allowance for vessels that do not qualify for a limited access mackerel permit; he expressed support for overlapping measures under consideration in the herring and mackerel amendments to the extent possible.

- Mr. Baker asked for clarification regarding cost estimates for Northeast Fisheries Observer Program (NEFOP) observers (or NMFS-approved observers) versus at-sea monitors (ASMs), which are currently used in the groundfish (sector) plan. Ms. Steele summarized the differences between NEFOP observers and ASMs and the reasons that the PDT supports using NEFOP observers for additional coverage in the herring fishery at this time. Mr. Baker noted that the most recent cost estimate he heard for NEFOP observers was \$750 per day (not \$1,200) and suggested that this be clarified, if appropriate, to avoid over-estimating observer costs in the analysis.
- Mr. Baker and Mr. Brogan asked about how the recent court ruling regarding the Standardized Bycatch Reporting Methodology (SBRM) would affect the alternatives under consideration in Amendment 5. Ms. Steele responded that the ruling had just been issued and noted that the implications of the ruling on the amendment and the measures under consideration remains unclear at this time. The advisors suggested that the Council discuss this issue and request further guidance/clarification from NMFS and NOAA General Counsel.
- Mr. Calomo noted that the goals and objectives of Amendment 5 do not focus on maintaining a fishing industry and employment in fishing communities.

### ***Measures Proposed For Elimination***

Ms. Steele briefly reviewed the measures proposed for elimination from Amendment 5, which appear in “~~strike through~~” in the Draft Amendment 5 document. There was limited Advisory Panel discussion on the measures proposed for elimination. Mr. Brogan noted that the Herring FMP still provides opportunity for at-sea processing and suggestion that the document should possibly include a provision that at least requires some specific standards to be met if at-sea processors enter the fishery.

### ***Consensus***

**To support removal of the measures/sections proposed for elimination from the Amendment 5 Draft EIS**

### ***Measures Proposed For Addition***

Ms. Steele briefly reviewed the measures proposed for addition in Amendment 5, which include sub-options for dealer reporting requirements and sub-options for measures to address net slippage. The Advisory Panel agreed to discuss the two issues separately, beginning with the proposed sub-options for dealer reporting requirements. Mr. Kaelin recommended that all three proposed sub-options be included for further consideration/public comment.

### **MOTION Jeff Kaelin/Peter Baker**

**To support inclusion of the three sub-options for reporting requirements for Federally-permitted herring dealers**

**Additional Discussion on the Motion:** Mr. Mullen expressed concern about the feasibility of weighing fish for some dealers. Mr. Kaelin reiterated his support for including the options in the document for further consideration/discussion and emphasized that the industry should support

taking extra steps to ensure that managers have the best information available. Mr. Baker asked if/how uncertainty related to catch reporting is factored into the ACL-setting process.

**The Motion carried 5 Yes, 4 No.**

The Herring AP discussed the sub-options proposed under the Measures to Address Net Slippage (Catch Termination and Possible Trip Deduction) but did not reach consensus regarding the addition of these measures. Rather than vote on a specific motion, each advisor was given an opportunity to provide comments:

- Mr. Kaelin felt that the option requiring a Released Catch Affidavit seems redundant and suggested that given the fact that information in the document shows that released catch represents a small component of total catch, the options for catch deduction/possible trip termination should be eliminated. He also stated that purse seine vessels will encounter significant challenges under a requirement to bring all catch on board or bringing the net on board.
- Mr. Mullen asked what kind of provisions apply to vessels in other fisheries like the squid or scup fishery, if fish are dumped at sea. He stated that every fishery encounters problems with discarding fish at-sea and feels that the herring fishery is being treated unfairly by measures that would require trip termination, on top of lower quotas, gear restrictions, and possible requirements to pay for observers.
- Mr. Westcott expressed opposition for all proposed measures to address net slippage, with the exception of the option to require a Released Catch Affidavit.
- Mr. Weiner questioned why the industry opposes the measures that would require trip termination after ten or five slippage events in a management area, if slippage events are rare. He expressed support for further consideration of all the measures to address net slippage and suggested that additional public comment on the options may provide more creative solutions.
- Mr. Baker referred to the goals and objectives of Amendment 5 and expressed support for further consideration of all of the measures to address net slippage. He also felt that the catch deduction penalty could be separated rather easily from landed/documented catch for the purposes of stock assessments, etc.
- Mr. Brogan asked how slippage events are/would be factored into Annual Catch Limit (ACL) setting and the determination of management uncertainty. He suggested that additional information be added to the document, if possible, to better characterize the nature and extent of slippage throughout the management areas, and to assess what may be a more appropriate catch deduction, if 100,000 pounds is not considered to be an appropriate estimate of a slippage event.

***Measures to Address River Herring Bycatch***

The Herring AP discussed the management measures proposed in Amendment 5 to address river herring bycatch but did not reach consensus regarding any specific comments or recommendations about these measures. Mr. Grout asked for Advisory Panel discussion/comments regarding the proposed options for reporting/monitoring the catch triggers

as well as the applicability of these measures to Category D (open access) permit holders. Rather than vote on a specific motion, each advisor was given an opportunity to provide comments:

- Mr. Calomo expressed concern over Maine's State Waters fishery for river herring, which landed over 1 million pounds in 2010, compared to the PDT's estimate of removals of about 165,000 pounds from the limited access herring fleet.
- Mr. Westcott expressed support for developing a bycatch avoidance program through utilization of technology and research with a study fleet. He has participated in the groundfish study fleet for over two years now and said that this approach shows a lot of promise.
- Mr. Kaelin expressed opposition for the proposed options that rely on river herring catch triggers and said that this approach is not consistent with how the fishery operates or what happens on the water. He noted that the Mid-Atlantic Council's Fishery Management Action team (FMAT) for the Amendment 14 to the Mackerel FMP just recently rejected area-specific management/closures to address river herring bycatch, due to variability of distribution of river herring and uncertainty about the effectiveness of static closures.
- Mr. Baker felt that the trigger-based options are too complex and that the Council should consider a coastwide total allowable catch (TAC) for river herring in the Atlantic herring fishery. He also expressed support for further consideration of electronic monitoring in the future. He noted that in this section of Amendment 5 (Management Measures to Address River Herring Bycatch), the intent of the measures should be to address and minimize bycatch, not record or document it.
- Mr. Calomo expressed concern about the measures to address river herring bycatch and the impacts of the measures on the vessels, crews, and fishing communities. He feels that river herring bycatch should be a concern that is addressed by the fishing industry.
- Mr. Swanson expressed support for measures that would close areas during times when river herring bycatch is known to be a concern.
- Mr. Mullen expressed concern about the potential for area closures to be ineffective due to the variability of river herring distribution and the ability of the fish to move outside the closure area.
- Mr. Brogan expressed support for an area-based or "hotspot" approach and referenced the North Pacific salmon fishery management program as a recent successful bycatch reduction program that relied on a hotspot-based approach.
- Mr. Weiner expressed concern about applying the river herring measures to Category D permit holders and felt that this would complicate the program such that no progress towards the objectives could be made. Mr. Baker agreed and felt that D permit holders should not be included. Mr. Mullen felt that any boat that tows a small mesh net should be subject to the measures to address river herring bycatch, regardless of permit category.
- Mr. Kaelin generally expressed support for including the Category D permit holders, but he suggested that the Council may want to consider limiting the measures to Category D permit holders that intend to fish for herring with small mesh bottom trawl nets.

### *Other Issues/General Comments*

Mr. Grout asked the Advisory Panel members for additional comments regarding the Draft Amendment 5 EIS document:

- Mr. Kaelin reiterated the importance of investigating the historical trawl survey data for river herring, specifically the analysis provided to the Mid-Atlantic Council's FMAT that illustrates the spatial distribution of the stock complex over time. He noted that the trends in those data appear unclear.
- Mr. Calomo reiterated his concerns about the impacts of the proposed management measures on the herring fishery and the importance of maintaining jobs and infrastructure in fishing communities.
- Mr. Weiner emphasized the importance of the herring resource to the tuna fishery and reiterated the tuna industry's concerns. He stated that managing the herring resource involves balancing multiple needs and that the impacts on the tuna fishery and other fisheries should be addressed in more detail in the document.
- Mr. Brogan provided some additional comments regarding the alternatives to allocate observer coverage to limited access herring vessels. He feels that the alternatives in the document currently bound the range but that the most appropriate approach may be somewhere in the middle. He suggested that observer coverage allocations be determined based on the needs of the fishery and input from the SBRM scientists. He cautioned that several experts have already suggested that the SBRM approach and standards may not be appropriate for management of bycatch caps, quotas, or other ACLs. He also felt that the 20% CV target for river herring seems somewhat arbitrary and suggested that the targets and coverage rates be determined from the bottom up, i.e., based on current science, specified objectives, and the needs of the fishery and its managers.
- Mr. Kaelin expressed opposition to the objective/notion that the amendment should reduce reliance on self-reporting, as self-reported catch forms the basis of catch data in most other FMPs.
- Mr. Mullen expressed opposition to 100% observer coverage and felt that current coverage levels are demonstrating that the herring fishery is one of the cleanest and least wasteful fisheries on the east coast.

The Advisory Panel meeting adjourned at approximately 4:00 p.m.. Advisory Panel comments and recommendations will be communicated to the Council during the herring discussion at its September 29, 2011 meeting.