



New England Fishery Management Council

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FINAL MEETING SUMMARY

NEFMC Herring Committee Meeting

ASMFC Herring Section Meeting

Comfort Inn, Warwick RI

September 20, 2012

The NEFMC Herring Committee met jointly with the ASMFC Herring Section on September 20, 2012 in Warwick, RI to: discuss the Amendment 4 lawsuit/court order, Council priorities and begin development of the 2013-2015 specifications package with information provided by the Herring Plan Development Team (PDT), SAW/SARC 54, and the Scientific and Statistical Committee (SSC).

Meeting Attendance: Doug Grout, Herring Committee Chairman, Frank Blount, David Pierce (ASMFC Herring Section Chairman), Mary Beth Tooley, Mark Gibson, Terry Stockwell, Peter Kendall; Erling Berg and Howard King (Herring Committee members); Richie White, Dennis Abbott, Bill Adler, (Additional ASFMC Section Members); Lori Steele and Rachel Neild, NEFMC staff; Toni Kerns, ASMFC Staff; Carrie Nordeen, Lindsey Feldman, and Mitch McDonald (NOAA NERO); Jeff Kaelin, Herring Advisory Panel Chairman; Dave Ellenton, Steve Weiner, Erica Fuller, Meredith Mendelson (GMRI), Ray Kane, Tom Hatfield, Jerry Cygler, and several other interested parties.

Webcast: Matthew Cieri, ME DMR; David Libby; Lou Goodreau and Chris Kellogg (NEFMC).

Discussion of Issues Related to Amendment 4 Court Decision and 2013 Council Priorities

Carrie Nordeen of the NMFS Regional Office briefed the Committee/Section on the Amendment 4 lawsuit and the August 31, 2012 letter from the Northeast NOAA Regional Administrator, John Bullard, regarding the court decision. Ms. Nordeen reviewed the court order and noted that the terms of the court order must be complied with in one year (August 2013). The letter from NMFS also stated that the Council should consider adding river herring and shad as stocks in the fishery through an amendment to the Herring FMP. Ms. Nordeen noted that the court determined that the Environmental Assessment (EA) for Amendment 4 did not sufficiently consider a range of alternatives for the ABC control rule or accountability measures (AMs) and these must be reconsidered with a more complete NEPA analysis by August 2013.

The timeline for all of the upcoming actions for herring was discussed. Ms. Nordeen felt that the Amendment 4 court order and the 2013-2015 herring specifications time frame should not be problematic if final decisions can be made by the Council regarding the specifications package by the January 2013 meeting. Ms. Steele explained that as part of the Council's upcoming discussion regarding 2013 priorities, river herring catch caps are proposed to be included in the specifications package because it was thought at the time that the specifications package would take much longer to develop if it is to include measures to comply with the court order. Now, however, it seems that the specifications package can be developed more expeditiously, so the Committee/Council may want to consider moving it along and addressing river herring catch caps through a separate action. Ms. Nordeen suggested that the herring catch cap could be implemented through a framework adjustment following the implementation of Amendment 5, and then modified/adjusted in the future through the fishery specifications process. She also agreed that including the options for a river herring catch cap in the specification package would likely complicate and slow down the specifications process.

1. COMMITTEE MOTION: TERRY STOCKWELL/MARY BETH TOOLEY

To recommend to the Council that the 2013-2015 herring fishery specifications be a stand-alone action, as top priority (including consideration of alternatives for the ABC control rule and accountability measures, consistent with court order)

Discussion on the Motion: Dr. Pierce is in favor of a timely implementation of the river herring catch cap but recognized the need to develop the specifications in as timely a manner as possible. Ms. Tooley felt that the specifications package should be focused on setting the herring quotas so that the fishery can operate and noted that the action must move forward in a timely manner to comply with the court order. She felt that river herring catch caps should be addressed separately through a process that allows time for thorough analyses and deliberation.

COMMITTEE MOTION #1 CARRIED UNANIMOUSLY.

Based on the previous motion, the Herring Committee recommends that the Council consider the following items for herring when discussing 2013 priorities (not presented in order of priority, with the exception of #1) **(Intent is to eliminate RH catch caps from specs process – Council can consider in the list of priorities for 2013):**

Herring

1. *** Develop specifications package for 2013-2015 based on new assessment (SAW 54)
 - Include alternatives to address Amendment 4 court order (ABC control rules and AMs);
 - Target completion ASAP, implementation ASAP 2013-2015
2. Develop a framework adjustment to establish river herring catch caps
3. Develop industry-funded monitoring program for Amendment 5 (framework adjustment; coordination with MAFMC) – target completion one year after Amendment 5 implementation
4. Amendment to consider river herring/shad as stocks in the fishery (TBD)

Review of SAW/SARC 54 and 2013-2015 Specifications Draft Discussion Document

Dr. Deroba (NEFSC) presented the results of the recent benchmark stock assessment for Atlantic herring, which occurred in June 2012 through SAW/SARC 54. A few Committee members and Section members discussed and asked questions regarding the model utilized in the assessment, biological reference points, and the differences in the 2009 and 2012 assumptions regarding natural mortality. Dr. Deroba made mention that the information that was in question was also considered as scientific uncertainties by the SSC and that the models that will be used in the future will be based primarily on research with less utilization of the benchmark assessment model.

Ms. Steele provided the Committee/Section with an overview of the recommendations from the Council's Scientific and Statistical Committee (SSC) regarding the specification of acceptable biological catch (ABC), issues related to management uncertainty and the specification of an overall annual catch limit, and the Draft Discussion Document for the 2013-2015 herring fishery specifications, which addresses all other elements of the specifications. At the end of Ms. Steele's presentation, Ms. Tooley suggested that the 2012 catch numbers for the New Brunswick Weir fishery be considered because catch in this fishery is very low again this year, and the fishery will have ended by the time final decisions are made by the Council regarding the specifications. Ms. Steele noted that while the NB weir season may be over, the fishery data for 2012 will not be considered complete, so the Council would have to make some assumptions about expected 2012 NB weir catch. Mr. Gibson noted that herring SSB has been averaging at or above its theoretical carrying capacity for over two decades and is concerned about moving forward with the MSY-based reference points that ultimately drive ABC control rule options. A discussion regarding the alternatives proposed for the ABC control rule ensued; it was noted that the constant catch approach may increase the risk of overfishing in Years 2 and 3, but that the probability is 50% or less in Year 3, and under either approach, the stock has no probability of becoming overfished.

2. COMMITTEE MOTION: DAVID PIERCE/TERRY STOCKWELL SECTION MOTION: DAVID PIERCE/TERRY STOCKWELL

To recommend adopting an ABC/ABC control rule as a preferred alternative for 2013-2015 based on the constant catch approach outlined by the Herring PDT and supported by the SSC

Discussion on the Motion: Mr. Gibson questioned whether it would be problematic to project a fishing mortality rate equal to F_{MSY} in Year 3, again noting that the expectation is a 50% or less probability. Ms. Nordeen stated that scientific uncertainty can be addressed in many ways, but the final selection should be fully explained in the document.

COMMITTEE MOTION #2 CARRIED UNANIMOUSLY. SECTION MOTION CARRIED UNANIMOUSLY.

Based on the previous motion, the Committee recommends that the Council specify OFL and ABC for herring in 2013-2015 as follows:

CONSTANT CATCH APPROACH	2013	2014	2015
OFL (mt)	169,000	136,000	114,000
ABC (mt)	114,000	114,000	114,000

Management Uncertainty and the Specification of a Total Annual Catch Limit (ACL) for Herring

The Herring Committee/Section reviewed the Draft Discussion Document and discussed issues related to management uncertainty, namely, Canadian catch of Atlantic herring (in the New Brunswick weir fishery), State waters herring catch, and estimates of herring discards. Dr. Pierce suggested that the five-year average of 11,218 mt should be considered regarding the Canadian catch numbers in place of the current 14,800 mt (former 10-year average).

**3. COMMITTEE MOTION: DAVID PIERCE/TERRY STOCKWELL
SECTION MOTION: DAVID PIERCE/TERRY STOCKWELL**

To deduct – as part of management uncertainty – a revised value of 11,218 mt for Canadian catch (NB weir fishery) based on a five-year average catch, as a preferred alternative

Discussion on the Motion: Mr. Stockwell suggested a three-year and five-year average approach and asked if the PDT could further develop the percentage based approach that was discussed in the August PDT meeting. Ms. Steele explained that the percentage-based approach discussed by the PDT relates to the way that fish may be re-allocated to Area 1A based on a more conservative buffer for management uncertainty. Ms. Tooley expressed concern about the high catch observed in 2007 and suggested that another approach be considered in which the high and low catch numbers are removed before averaging (similar to how management uncertainty was accounted for during the 2010-2012 fishery specifications). Dr. Pierce responded that based on recent catch levels and the expectation of a very low catch in 2012, utilizing a three-year average should be adequate to capture the expected catch in the fishery for the next three years.

MOTION 3 PERFECTED:

To deduct – as part of management uncertainty – a revised value of 6,200 mt for Canadian catch (NB weir fishery) based on a three-year average catch (2009-2011, rounded to the nearest hundred mt), as a preferred alternative

Further Discussion: Mr. White (Herring Section) expressed concern about the ramifications of assuming a low catch if the NB weir fishery actually takes much more in any of the next three years. Ms. Steele states that there are no ramifications because there is no control over the Canadian catch, but that the Council would revisit the assumption in the next round of specifications. Ms. Tooley noted that the overall goal of the management program is not to exceed the OFL. Many of the public comments provided before the vote on the motion expressed that 6,200 mt may be too low to deduct for management uncertainty due to catch in the

NB weir fishery. Mr. Gibson noted that in the context of the herring resource (biomass is more than 500,000 tons), there should not be a problem no matter what is assumed for catch in the NB weir fishery, but that the additional few thousand tons is extremely important to the U.S. fishing industry. Ms. Tooley and others noted that there will likely be between 8,000 and 10,000 mt in 2012 that will not be fished because the amount assumed to be caught in the NB weir fishery (14,800 mt) will not be fished.

COMMITTEE MOTION #3 CARRIED 7-0-1.

SECTION MOTION CARRIED 3-1-0.

Based on the previous motion, the Committee recommends that the Council specify a total ACL (U.S.OY) for herring in 2013-2015 as follows:

CONSTANT CATCH APPROACH	2013	2014	2015
OFL (mt)	169,000	136,000	114,000
ABC (mt)	114,000	114,000	114,000
ACL/OY (mt)	107,800	107,800	107,800

Preliminary Discussion of Other Specifications and Options for Sub-ACLs

The Committee and Section discussed how the sub-ACL options should be developed based on the recommendations for the ABC and management uncertainty.

- Dr. Pierce discussed how the sub-ACLs are developed and noted that the inshore component is a limiting factor; he suggested that the PDT considered this when evaluating the risk assessment analysis and other ways to ensure that risk to the inshore component is minimized. Dr. Pierce also noted that there is increased interest by the industry in increasing the quota in Area 2, if possible from available catch in Area 3.
- Ms. Steele noted that there currently is not any further data to suggest anything different about stock mixing and/or catch from Area 3 (assumed to come entirely from the offshore component).
- Ms. Tooley expressed opposition to utilizing the risk assessment analysis for analyzing the specifications because it was complicated and not well-understood. Ms. Steele agreed that the “risk assessment” was interpreted more literally than it was originally intended (which was to provide a basis to compare options to each other, in a relative way, based on potential impacts to the inshore component). She stated that the PDT will consider the risk assessment as well as any other methods for analyzing the sub-ACL options.
- Mr. Gibson felt that it would be appropriate to consider two strategies when developing sub-ACL options: 1) an industry-needs options based on allocating additional fish to the areas that have closed early; and 2) one based on minimizing risk to the inshore component.

**4. COMMITTEE MOTION: TERRY STOCKWELL/MARY BETH TOOLEY
SECTION MOTION: TERRY STOCKWELL/DENNIS ABBOTT**

That the Herring PDT develop at least two sub-ACL options: (1) increase in all areas proportional to the increase in the ACL; (2) needs-based increase with a proportional division between Areas 1A, 1B and 2

Discussion on the Motion: The Committee clarified that the first option would maintain the current proportions for each management area (i.e., Area 1A quota represents 29% of the total, Area 1B quota represents 5% of the total, etc.). Mr. Gibson noted that there should be a third option to alter the current proportions and divide differently if need be. Mr. Stockwell feels that they should defer to the Herring PDT on how the catch should be divided. The motion was perfected to provide the PDT with flexibility to develop more than two options. Ms. Tooley suggested, and several others agreed, that an option should be considered that eliminates two management areas in the Gulf of Maine and sets one sub-ACL for all of Area 1A. It was acknowledged that this probably cannot be achieved through the current specifications process and may require an additional management action. A discussion about stock mixing, the risk assessment, and the sub-ACL for Area 1B continued. Mr. Kaelin reiterated his support for an approach that would redistribute sub-ACL from Area 3 to Area 2.

COMMITTEE MOTION #4 CARRIED UNANIMOUSLY.

SECTION MOTION CARRIED UNANIMOUSLY.

**5. COMMITTEE MOTION: ERLING BERG/MARK GIBSON
SECTION MOTION: DENNIS ABBOTT/MARK GIBSON**

That the PDT also analyze the potential to move quota from Area 3 to Area 2 to address the need to provide opportunity for the mackerel fishery

Discussion on the Motion: Mr. Stockwell felt this would be beneficial to look into, but does not want to slow the process down at the expense of time and resources at the present time. Mr. Kaelin noted that he appreciates this motion and stated that an increase in 10,000 mt would accommodate their needs in Area 2. Much of the public felt that an alternate approach needs to be addressed regarding the quota for Area 2 and that other options should be considered. Ms. Steele noted that there may be an opportunity to provide an additional 10,000 mt of catch in Area 2 under the current process, since the OY is proposed to increase more than that amount; she questioned the need for this motion and reminded the Committee that the PDT will base its recommendations on the best available information, none of which suggests that any catch from Area 3 includes fish from the inshore component.

COMMITTEE MOTION #5 CARRIED 4-3-1.

SECTION MOTION CARRIED 3-1.

**6. COMMITTEE MOTION: MARY BETH TOOLEY/PETER KENDALL
SECTION MOTION: TERRY STOCKWELL/NO SECOND**

To consider alternatives for adjusting accountability measures (AMs) that include closing the herring fishery (a) when 95% of a management area sub-ACL is projected to be taken and (b) when 100% of a management area sub-ACL is projected to be taken

Discussion on the Motion: Ms. Tooley brought this motion forward to begin work on any additional options/alternatives for accountability measures that may be considered in the specifications process to comply with the court order regarding the Amendment 4 lawsuit. Ms. Steele stated that the Council would consider this issue at its September meeting and that the Committee would revisit alternatives for accountability measures once more following the September Council meeting. The Section motion did not receive a second. The Herring Section will not consider options to adjust accountability measures at this time.

COMMITTEE MOTION #6 CARRIED 5-1-0.

Ms. Steele suggested that the more detail that can be provided for the specifications package at this meeting, the less burdensome subsequent meetings may be. Mr. Stockwell discussed the Border Transfer (BT) specification and suggested that 4,000 mt may be too high and requested that the PDT recommend a more appropriate number as well as a recommendation for Research Set-Asides (RSA). Ms. Steele stated that the BT specification is entirely at the discretion of the Council and also stated that the percentages/amounts for consideration of RSAs will be provided with the options under consideration. Ms. Tooley noted that BT is a limit and that it is not considered a reduction from the amount of fish available to U.S. processors. She also felt that it is important to maintain cooperation between the U.S. and Canada through BT. However, Ms. Tooley did not express support for RSAs at this time. Mr. Ellenton commented that RSAs were utilized at one time when the quota was large enough and supported further cooperative research to the extent possible.

Other Related Issues and Other Business

- Mr. Kaelin suggested that the ASMFC consider a days out approach for Area 2 in 2013 since increases to the quota cannot be implemented in time for the winter fishery. Dr. Pierce noted that an addendum would not be required for this action, but that the affected States would have to discuss the issue. Mr. Rochford commented that days out could become very problematic in Area 2.
- Mr. Sigler made the Committee and Section aware that third-party observers can be ready to sample the fishery in one month's time and encouraged the Council and NMFS to consult with service providers to get more information on costs and sampling issues.
- Mr. Ellenton remarked that he remains disappointed about the numbers provided for the specifications for the next three years due to the health of the resource and the significant amount of yield that should be available.

The Herring Committee/Section meeting adjourned at approximately 5:00 p.m.