



New England Fishery Management Council

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DRAFT MEETING SUMMARY

NEFMC Herring Committee Meeting

Holiday Inn, Peabody, MA

November 7, 2012

The NEFMC Herring Committee met on November 7, 2012 in Peabody, MA to discuss the 2013-2015 specifications package with information provided by the Herring Advisory Panel, Herring Plan Development Team (PDT), SAW/SARC 54, and the Scientific and Statistical Committee (SSC).

Meeting Attendance: Doug Grout, Herring Committee Chairman, Frank Blount, Mary Beth Tooley, Mark Gibson, Terry Stockwell, Peter Kendall; Matt McKenzie, Vincent Balzano (8 of 11 Herring Committee members; David Pierce, Howard King, Erling Berg absent); Lori Steele, Rachel Neild, and Rachel Feeney (NEFMC staff); Carrie Nordeen, Lindsey Feldman, Gene Martin, Mitch McDonald (NOAA NERO); Jeff Kaelin, Herring Advisory Panel Chairman; Dave Ellenton, Chris Weiner, Herring AP members; Steve Weiner, Erica Fuller, Roger Fleming, Jud Crawford, Ray Kane, and several other interested parties.

Webcast: Matthew Cieri (ME DMR), Kate Taylor (ASMFC), Geir Monsen

Ms. Steele presented an overview of the Draft 2013-2015 Atlantic Herring Fishery Specifications document, with a general question and discussion afterward. Mr. Kaelin, Herring AP Chairman, summarized the discussion and recommendations from the Herring Advisory Panel meeting on November 6, 2012. He presented the motions regarding the options for the annual catch limits (ACLs, sub-ACLs) and accountability measures (AM) that are being considered for the 2013-2015 specifications package.

The Committee members asked a few questions for clarification regarding AMs, natural mortality (M) assumptions in the assessment, and herring as a forage species. Dr. McKenzie and Mr. Gibson stated that the assessment model used for Atlantic herring made great advancements in terms of addressing predation and natural mortality, and considering a control rule would be another important step towards advancing the concept of ecosystem-based management, when the time comes. Dr. McKenzie emphasized the need to continue to differentiate between natural mortality/predation and forage needs for the ecosystem as the Council moves forward with decisions about the long-term management of the herring resource and fishery.

Alternatives for Specifying Acceptable Biological Catch (ABC)/ABC Control Rule

The Committee discussed whether to further consider the ABC Control Rule alternatives (Lenfest Control Rule and Pacific Coast Control Rule) suggested in the October 8, 2012 EarthJustice correspondence. Mr. Grout noted that the SSC suggested that the Council consider whether a traditional MSY-based approach is sufficient for managing Atlantic herring over the long-term, or whether an approach that addresses the importance of herring as a forage species is more appropriate. Ms. Tooley noted that at the SSC meeting in September 2012, there was a discussion regarding herring as a forage species and the treatment of forage and natural mortality in the assessment. She felt that to ask the SSC for further guidance on this matter may be more burdensome at this time because the two alternatives suggested by EJ are long-term approaches that cannot be adopted in the specifications package. Mr. Stockwell felt similarly and stated that the PDT recommends further analysis regarding two alternatives to fully understand the reference points consider whether the recommendations in the “Lenfest Report” may be a viable route for Atlantic herring. Dr. McKenzie noted that forwarding these two alternatives to the SSC could help address the Amendment 4 court order that a range of alternatives be considered in the specifications package. He suggested that adopting a fishing mortality that achieves similar results simply by default and not by design may not be acceptable to the court.

1. MOTION TERRY STOCKWELL/PETER KENDALL

That the Council forward to the SSC the Pacific Coast Control Rule for evaluation and possible inclusion in the specifications document

Discussion: Mr. Stockwell felt that sending one alternative to the SSC for consideration would satisfy the court order without delaying the development of the specifications package, but he said that is still uncomfortable with this approach because the control rule is a long-term approach that requires more analysis. Mr. Gibson felt that if one alternative should move forward for further consideration, the Lenfest Control Rule would be more appropriate given the limited information presented.

MOTION #1 PERFECTED (WITHOUT OBJECTION):

That the Council forward to the SSC the Lenfest Hockey Stick Harvest Control Rule for evaluation and possible inclusion in the specifications document

Further Discussion: Mr. Kaelin opposed this motion and suggested that another alternative with a target of 100% F_{MSY} be considered in the range of alternatives. Dr. Crawford noted that a harvest control rule can help manage Atlantic herring as a forage species over the long-term under a range of variable circumstances. Mr. Fleming agreed that considering a control rule will encourage better long-term management of the herring resource. Dr. McKenzie stated that providing multiple alternatives to the SSC to choose from can help lay the groundwork for management tools to optimize the herring fishery.

MOTION TO AMEND MATT MCKENZIE/NO SECOND:

That the Council forward to the SSC both control rules in the EJ letter for evaluation and possible inclusion in the specifications document

FAILED FOR LACK OF SECOND.

MOTION #1 CARRIED 6-1-0.

Options for Allocating the Stock-wide Herring ACL into Management Areas (Sub-ACLs)

The Herring Committee discussed the suggestions provided by the Herring Advisory Panel and the Herring PDT regarding the stockwide ACL (107,800 mt under the Preferred Alternative for ABC) and how it would be best utilized when allocated to the four management areas/sub-ACLs (Area 1A, Area 1B, Area 2, and Area 3). Council staff suggested that streamlining the number of options would be helpful for the analysis.

2. MOTION MARY-BETH TOOLEY/TERRY STOCKWELL

To eliminate Sub-ACL Options 5 and 6 from further consideration

Discussion: Ms. Tooley stated that the industry is interested in maintaining the Area 1B directed fishery for the time being but that there may be interest in discussing the elimination of the 1A/1B boundary line. Mr. Grout noted that there have been overages in Area 1B and that the options for accountability measures should be considered to address this issue, depending on the sub-ACL allocated to the area.

MOTION #2 CARRIED UNANIMOUSLY.

Preliminary Discussion of Other Recommendations Regarding Sub-ACL Options

The Committee discussed the additional Herring AP recommendations.

- Ms. Tooley suggested that the Committee consider a recommendation to initiate a framework action to allow for seasonal splitting of the sub-ACLs, and that this action parallel the specification process, emphasizing that this should not delay the specification process.
- Mr. Martin explained the differences between approval/disapproval and rulemaking between specifications and framework adjustments. He noted that although the specifications and framework action may be parallel, they do have to be independently implemented. Mr. Martin suggested that the framework action to allow seasonal splits be developed and submitted concurrently but implemented starting in 2014 to ensure that the specifications can be implemented as proposed for 2013 and are not further delayed.
- Ms. Nordeen noted the timeline for the court order, which needs to be fulfilled with sufficient NEPA analysis by the August 2013 deadline.

3. MOTION MARY BETH TOOLEY/TERRY STOCKWELL

That the Council initiate a framework adjustment to establish the mechanism to allow for seasonal splits of sub-ACLs (parallel action with 2013-2015 specifications package)

Discussion: Mr. Kaelin stated that the reason for this recommendation by the AP members was primarily the concern for Area 2 and the issues surrounding the mackerel fishery to ensure that herring will be available in winter's later months so that the mackerel fishery is not precluded because the quota for herring has been met. The mackerel fishermen generally catch more than the 2,000 pounds of herring in the winter months when fishing for mackerel so once the herring fishery closes, many mackerel vessels stop fishing to avoid a regulatory issue and/or bycatch situation.

MOTION #3 CARRIED UNANIMOUSLY.

4. MOTION: MARY BETH TOOLEY/VINCENT BALZANO

That the Council consider splitting the Area 2 sub-ACL seasonally with 2/3 available January-February and the remaining 1/3 available for the rest of the fishing year; and consider a seasonal split for Area 1B with 0% January – April and 100% available for the remainder of the fishing year (intent for unused portion to rollover into next period and for splits to become effective in 2014, and to apply AMs to each time period/season)

Discussion: Mr. Grout and Ms. Tooley discussed that the intent is to rollover the unused sub-ACL from the split throughout the remainder of the year if the entire 2/3 is not used and confirmed that the intent is to apply the AMs to both seasonal periods. Mr. Paquette suggested that there would be problems regarding the midwater trawl gear in Area 1B in June if there is a seasonal split and that it may disrupt the striped bass migration during that time. Ms. Tooley recognized Mr. Paquette's concern but noted that except for the past two years, the fishery has been open year-round in Area 1B. She also noted that Area 1B is a large area and suggested that striped bass may not fully utilize the entire area for migration. Mr. Kaelin stated that the fishery is allowed in Area 1B in June and that the split may help manage the fishery with the sub-ACL allocation as well. Mr. Kaelin as noted that this could be a benefit to the river herring bycatch if fishing were not allowed before May.

MOTION #4 CARRIED UNANIMOUSLY.

5. MOTION MARY BETH TOOLEY/TERRY STOCKWELL

That the Council consider an option for different specifications for 2013 – modify Option 4 and include sub-option for 2013 only that would allocate 32,000 mt Area 1A, 10,800 mt Area 1B, 27,000 mt Area 2, and 38,000 mt Area 3 for 2013; specifications would be as currently proposed in Option 4 for 2014 and 2015

Discussion: Ms. Tooley noted that the specifications may not be implemented till the middle of 2013, so she suggested that there be a shift of quota from Area 2 to Area 1B so that there is less of a chance for an overage issue in Area 1B and more chance that the fishery can fully utilize OY in 2013. Ms. Tooley noted that there will be an overage deduction in Area 1B for 2013 and 2014 due to the overages in 2011 and 2012. Mr. Chris Weiner stated that Area 1B borders much of the inshore areas and it would be interesting to see the analysis on the biological impacts on the

different stock components. Ms. Tooley acknowledged the comment but also stated that Area 1A and Area 1B are mixing areas.

MOTION #5 CARRIED UNANIMOUSLY.

Alternatives for Accountability Measures (AMs)

The Herring Committee discussed the proposed options for AMs provided in the Draft 2013-2015 Herring Specifications Document and considered which AMs should be further analyzed, along with the suggestions provided by the Herring AP members (in support of applying the same AMs to the ACLs and sub-ACLs).

- Ms. Nordeen summarized issues associated with the current sub-ACL monitoring process and explained how catches are projected and closures are published in the *Federal Register*. The Regional Office maintains a running projection of catch based on historical catch rates and projects a closure date to file in the *Federal Register*. If catch rates are significantly higher or lower than historical rates used in the projections, then catch will be different than what was projected for closure. The Regional Office suggests structuring AMs such that pulses of fishing effort that occur as the quota is close to being reached can either be slowed down or more effectively predicted. Mr. Grout asked about the difference was between vessel-reported catch data and estimates supplemented with dealer data. Ms. Nordeen explained that the vessel hail weights are generally higher than the dealer weights.
- Ms. Tooley noted that the *Federal Register Notice* is time constraining and that a more in-depth discussion on a regulatory fix is needed so that the herring fishery is able to close in 24-48 hours. Mr. Martin and Ms. Nordeen noted that it is difficult to find a solution; however outreach to industry, updating the website more frequently, providing daily catch are suggestions, but they would like to know what the best methods for notification that the industry could suggest to better the process. Mr. Grout suggested that the state directors may be able to work with NMFS to put a landings prohibition in certain areas, which is faster than a *Federal Register Notice*.
- It was noted by Ms. Nordeen that there is no AM for the total stockwide ACL but that the AMs are for the sub-ACLs only. Ms. Nordeen noted that there is a considerable buffer between the ABC and ACL, but the goal is to not exceed the ACL. She suggested that the Council address AMs for the stockwide ACL in the specifications package.

6. MOTION TERRY STOCKWELL/MARK GIBSON

That the Council consider all AM Alternatives except for Alternative 5C in the 2013-2015 herring specifications package

Discussion: No further discussion.

MOTION #6 CARRIED 6-1-0.

AM Alternative 2A

- Ms. Tooley felt comfortable leaving the suggested 92% as a threshold and stated that options regarding thresholds should be limited. Dr. McKenzie suggested thresholds of 85% and 90% as a range for potential options. He stated that if it were a premature closing then the fishery would re-open, but it is necessary to inform the industry whether they are getting close to the quota. Mr. Stockwell acknowledged the reasoning for Dr. McKenzie's suggestion but felt as though it was unnecessary and will create additional work for the PDT. Mr. Stockwell noted that he felt comfortable with further analysis regarding the 95% and 92% options.
- Mr. Ellenton noted that the 95% threshold is working well and that the fishermen have been able to fully utilize the OY without ever going over the total ACL. Mr. Kaelin also noted that the AMs are assisting in keeping the fishery well below the biological limit.
- Ms. Fuller agreed that a more reasonable range of alternatives would include one alternative that is closer to the 85% threshold.

AM Alternative 4

- Mr. Stockwell suggested more input from the industry regarding the details of this alternative. Ms. Nordeen stated that a clear details need to be included in this alternative for it to be approved. Mr. Martin noted that preconditions can be set with a justified rationale to waive public comment, which may be the case with this alternative.
- Dr. McKenzie felt that there is too much ambiguity surrounding this AM and that the other suggested AMs seem effective and achieve the goals sufficiently.
- Mr. Grout suggested that NMFS change to daily reporting of catch monitoring after 70% is reached, which would help inform the industry of the pace of the fishery and possibly slow the harvest down, especially in Area 1A.

Other Fishery Specifications (USAP, BT, RSA, FGSA)

The Herring Committee agreed with the recommendation that the Herring Advisory Panel suggested regarding USAP, BT, RSA, and FGSA.

7. MOTION TERRY STOCKWELL/MBT

To recommend status quo (2012) specifications for USAP (0 mt), BT, (up to 4,000 mt), RSA (0 mt), and FGSA (295 mt)

Discussion: Ms. Nordeen noted the fixed gear set-aside (FGSA) for 2012 was re-allocated to Area 1A as of November 1, 2012 because none was utilized.

MOTION #7 CARRIED UNANIMOUSLY.

Other Business

- Ms. Tooley noted that the inshore spawning component and the offshore spawning component should be equally important and the protecting the spawning component was the primary objective of the Herring FMP.
- Ms. Tooley discussed considering rollovers of sub-ACL underages in the herring fishery as part of the framework adjustment. She noted that other fisheries do allow rollovers within a certain percentage. Mr. Martin noted that this is possible with a framework action. Ms. Nordeen stated that NMFS will look into it further regarding modifications to ACL provisions and/or adjustments.

8. MOTION – MARY BETH TOOLEY/PETER KENDALL

That the Council include consideration of allowing sub-ACL rollovers of up to 10% in the herring fishery as part of the parallel framework adjustment to modify the specifications process

Discussion: Dr. McKenzie stated that fish left in the ocean should not be considered “lost,” but consider those fish as spawners for the next generation. Mr. Stockwell noted that the analysis conducted by the Herring PDT will help to see if rollovers are biologically acceptable. Ms. Steele cautioned that rollovers are provisions that have biological impacts, and the details and analysis associated with them can be extensive, certainly more extensive than analyzing a measure that simply allows for sub-ACLs to be split seasonally. She suggested that this provision may delay the parallel framework adjustment. Mr. Grout noted that this framework action may not be a priority measure and may slow the specification process at this time. Mr. Ellenton explained that the rollover is from the quota already allocated, and perhaps a 10% threshold would provide additional security that an overage will not occur. Mr. Weiner stated that if this helps address the sub-ACL overage issue because the industry would be more apt to not fish the entire quota knowing that there would be a rollover into the following year, then he would be inclined to support it.

MOTION #8 PERFECTED (WITHOUT OBJECTION):

That the Council include consideration of allowing sub-ACL rollovers of up to 10% in the herring fishery as part of the parallel framework adjustment to modify the specifications process (intent is that process for determining rollovers would be consistent with AMs for overage paybacks)

MOTION #8 CARRIED 5-2-0.

The Herring Committee meeting adjourned at approximately 3:30 p.m..