



New England Fishery Management Council

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**MEMORANDUM**

**DATE:** September 14, 2010  
**TO:** Council Members  
**FROM:** Lori Steele, NEFMC Staff, Herring PDT Chair  
**SUBJECT:** **Summary of Herring Committee Motions Pertaining to Amendment 5 Development**

This memo provides a summary of Herring Committee motions pertinent to the development of the Draft Amendment 5 document, dating back to the Committee meeting on March 26, 2008, when Amendment 5 development began.

For the purposes of simplification and to provide perspective on everything that has been considered by the Herring Committee during the development of Amendment 5, many of the Committee motions that modified the alternatives slightly or eliminated alternatives from further consideration (moved to the considered but rejected section) are not included below. The “considered but rejected” section of the Draft Amendment 5 Discussion Document can be referenced for more information about the measures that the Committee proposes to eliminate from further consideration at this time and the rationale for recommending their elimination.

**3/26/2008**

To approve the Goals/Objectives for Amendment 4, as drafted in the March 17, 2008 Memo from Council Staff;

And add a fourth objective for Amendment 4:

*To address the health of the herring resource and the important role of herring as a forage fish and a predator fish throughout its range.*

And split Objective #2 into two separate objectives

To propose in the Scoping Document that any allocation of herring for any form of LAPPs and/or sectors utilize landings history from 1A with a qualifying period that ends December 31, 2006 (add this to questions to consider in the Scoping Document)

To recommend that the Council also consider alternatives to address concerns about potential herring discards on mackerel vessels in Areas 2/3

### 7/30/2008

As an alternative in Amendment 4, that Area 2/3 Category D Incidental Limit be Raised to 25 mt

If herring vessels are observed, that coverage be distributed fairly, to meet the needs of science and management, throughout the range of the fishery

That the Council eliminate quota allocations (group, sector, individual, LAPPs, etc.) from consideration in this amendment

In the event that the Council not consider an amendment for any form of LAPP, that the December 31, 2006 date be established for qualification for allocation history in Area 1A

### 9/30/2008 – 10/1/2008

To develop and consider options that would also require negative IVR Reporting on a trip-by-trip basis

That the Council request that the Herring PDT craft alternatives for time/area closures to protect the SNE/MA runs of river herring (including Cape Cod area)

That the Council collaborate as much as possible with ASMFC and the MA Council regarding the management of the river herring resource

To approve the Amendment 4 Draft Discussion Document, as modified by the Committee 9/30 and 10/1, for further development into management alternatives for inclusion in the Draft EIS

### 12/16/2008

That if, on any given trip, a vessel targeting herring in a groundfish closed area has regulated groundfish exceeding 1% of the catch of herring, that vessel will be required to have 100% observer coverage for one year as a condition to gain further access to the closed areas. If the 1% bycatch allowance is exceeded again, that vessel would be denied access for one year

To adopt the following as goals/objectives of the catch monitoring program (based on elements of the MA DMF proposal):

- (1) To create a cost effective and administratively feasible program for provision of accurate and timely records of catch of all species in the herring fishery
  - Review federal notification and reporting requirements for the herring fishery to clarify, streamline, and simplify protocols
- (2) Develop a program providing catch of herring and bycatch species that will foster support by the herring industry and others concerned about accurate accounts of catch and bycatch, i.e., a well-designed, credible program

- Avoid prohibitive and unrealistic demands and requirements for those involved in the fishery, i.e., processors and fishermen using single and paired midwater trawls, bottom trawls, purse seines, weirs, stop seines, and any other gear capable of directing on herring
  - Improve communication and collaboration with sea herring vessels and processors to promote constructive dialogue, trust, better understanding of bycatch issues, and ways to reduce discards
  - Eliminate reliance on self-reported catch estimates
- (3) Design a robust program for adaptive management decisions
- (4) Determine if at-sea sampling provides bycatch estimates similar to dockside monitoring estimates
- Assure sea sampling of at-sea processors' catches is at least equal to shoreside sampling
  - Reconcile differences in federal and states' protocols for sea sampling and dockside sampling, and implement consistent dockside protocols to increase sample size and enhance trip sampling resolution

To include the Council staff example as one alternative in Amendment 4 for a catch monitoring program in the herring fishery:

- Goals/objectives as approved by the Herring Committee in previous motion (with continued discussion and possible further development/modification)
- Measures for maximized retention based on CHOIR/Herring Alliance suggestions (while addressing industry concerns about the benefits of test tows, presorting issues (dogfish, for example), safety issues, etc.)
- Measures for certified weighing/volumetric measurements standardized for the herring fishery (included in several proposals)
- Measures to eliminate the research set-aside and instead establish a portside sampling set-aside (3%) to significantly increase sampling (based on ME DMR portside sampling program including specific protocols/standards, requirements for follow-up analysis re. relationship between portside and at-sea monitoring data, and possible extrapolation to the entire fishery)
- Electronic reporting for limited access vessels (based on study fleet program with possible additions/modifications, including Frulla et al suggestions to utilize technologies to identify bycatch areas and slippage events)
- Measures to improve IVR/VTR reporting and measures to address transfers at sea (see Draft Amendment 4 Discussion Document October 2008 for possible options)
- At-sea (observer) sampling design based on 20% CV for herring, river herring and haddock (October 2008 Council motion) and emphasis in Amendment 4 on as much observer coverage as possible
- Measures to improve at-sea sampling (develop options from bulleted list on p. 30 of Draft Amendment 4 Discussion Document October 2008)

- Measures/criteria for access to groundfish closed areas (including consideration of 100% observer coverage in closed areas and other provisions in the Herring Alliance proposal)
- Establish a pilot program for electronic video monitoring to verify maximized retention and determine the most appropriate applications for the herring fishery (consider CHOIR and Archipelago information/recommendations)

**1/28/2009**

Recommend to the Council to reconsider the recommendation for a 20% CV on Atlantic herring, river herring, and haddock, and instead recommend using a 30% CV on the stocks that are not overfished (herring, haddock) and 20% on the stocks of concern (river herring)

***Consensus***

The Herring Committee agreed by consensus to forward the list of proposed management measures to address at-sea monitoring (Section 2.3.4.2) to the Enforcement Committee for further discussion

To include the industry proposal (January 21, 2009 Kelley Drye & Warren letter) an alternative for catch monitoring to consider in this amendment

To include the CHOIR proposal as alternatives for catch monitoring to consider in this amendment

To include MASS DMF Proposal as an alternative for catch monitoring in the amendment

**3/24/2009**

To have two objectives for a dockside monitoring program that include Scenarios #2 and #4 in the March 23, 2009 Memo:

- To sample enough landings events to estimate bycatch across the herring fishery
- To confirm the accuracy of self-reporting

**6/4-5/2009**

To include section 3.3.1.3 (Outreach Programs) with changes to the language to reflect recommendations instead of requirements

To include a fourth option for transfers at sea, Section 3.3.2 that would allow transfers at sea of Atlantic herring for category D open access vessels, provided (1) the transferring vessel had an LOA issued by the RA on board the vessel; and (2) the transferring vessel identifies on the VTR the name of the vessel and pounds of herring transferred for each receiving vessel on a trip

To substitute the PDT and staff recommendations for measures to address trip declarations and notification requirements (Section 3.3.3), eliminating “any trip where the operator expects to encounter and land Atlantic herring” and replacing it with “any trip where the operator may harvest, possess, and land Atlantic herring” (both options described on p. 47 and 48)

To modify Measure IIE – when observers are deployed on herring trips involving more than one vessel, require observers on any vessel taking on fish where/when possible

To require that limited access Category A, B, and C vessels report daily by VMS Atlantic herring catch and discards, and statistical area (similar to the US/Canada area reporting requirements for multispecies)

*(Intent is that this is on a declared herring trip)*

That the PDT work with the observer program to develop a minimum portion of a slipped catch that would be required to be pumped on board a vessel for an observer to obtain a statistically valid sample to characterize the catch composition of slipped tows

That an affidavit be created for slippage/dumping events, to be signed under penalty of perjury. When an observer is present, the event would be fully documented with photographs. This affidavit will contain (1) the reason for slippage; (2) an estimate of the quantity and species composition of the dumped fish; and (3) the location and time of the dumped fish

That the additional options proposed in the June 1 2009 letter from the CHOIR Coalition be added to Alternative 3

Recommend to the Council that Amendment 4 be split to address the ACL/AM provisions only, and that the remaining measures (catch monitoring, river herring bycatch, mackerel, and the groundfish closed areas) be incorporated into Amendment 5, and that the time period is as outlined in the draft strawman document dated February 3, 2009. Only the remainder of the Amendment 4 work would be considered in Amendment 5

#### **8/24/2009**

To restructure the draft Amendment 5 discussion document for further development

That the catch monitoring provisions of Amendment 5 apply to Category A, B, and C herring vessels

#### **9/17/2009**

Recommend that the Council adopt the restructured catch monitoring alternatives for further development in Amendment 5 (other issues will remain in the Amendment 5 Discussion Document dated July 31, to be addressed after the development of the catch monitoring alternatives)

**3/30 – 31/2010**

To develop two funding alternatives establishing a monitoring set-aside, one in addition to the research set-aside (RSA), and one that would replace the RSA. These alternatives will include sub-options that will cover some or all of the cost of a new monitoring system. The percent allocated to the monitoring set-aside may increase as the ABC and the TAC for the fishery as a whole increases

To include an option under Section 1.3.2 to allow for trip-by-trip VMS reporting

To create a sub-option under Section 1.3.3.2 that would eliminate requirement for VMS on carrier vessels of a certain size (TBD)

To add an option to Section 1.4 that would require that trucks/transport vehicles be weighed

To request the Interspecies Committee to consider developing a mechanism to allow retention of bycatch of federal and ASMFC-managed species in the Atlantic herring fishery. Also, to potentially consider allowing landing and sale of bycatch as a means to fund monitoring of the Atlantic herring fishery

The Herring Committee agreed by consensus that Council staff should develop an option for an EFP process to research the potential applicability of maximized retention to the herring fishery. The Committee also agreed to revisit the issue at a later date.

To amend Option 5 of Section 1.6.2.5 to read that observers be allowed to view the contents of the codend after pumping has ended

To task the PDT to develop trip termination options for slippage events, applicable to different gear types, vessel sizes, and observer rates

To include all gear types in the option to require an affidavit for slippage events (Section 1.6.3.1)

To eliminate options for specifying service providers and allow multiple service providers that meet the criteria specified in the amendment

**5/17/2010**

To task the PDT with further review of river herring and shad observer data to identify gear-specific times and areas where Closed Area I bycatch regulations may be applied. Emphasis should be on identification of bycatch seasonal hotspots

That the PDT further develop the move along concept to reduce river herring and shad bycatch similar to the approach to be undertaken by the Sustainable Fisheries Coalition bycatch avoidance proposal as one alternative to consider in Amendment 5

### 7/27 – 28/2010

- To include an alternative that funds catch monitoring from federal funds
- To include an alternative that funds catch monitoring from federally-permitted dealers
- To not develop the alternative drafted in Section 3.3.3 – Apply Closed Area I (CAI)  
Proposed Rule Provisions
- To include the remaining alternatives in Section 3.3 in Amendment 5 for further consideration at this time
- To add an alternative to Section 3.3 that would prohibit directed fishing for Atlantic herring in river herring hotspots

### 9/1-2/2010

- That for the measures to confirm the accuracy of self-reporting, Category C vessels would be required to place all fish either in a certified hold or a pre-measured container
- To add an option for observer coverage levels based on seasonal stratification of river herring data intended to improve the accuracy and precision of river herring bycatch estimates
- That we request that States continue and expand their portside sampling programs provided funds are found for the program, in support of the Council's priority for portside sampling coverage and that the Herring PDT and Technical Committee jointly meet to review the States shoreside monitoring programs in order to address the goals and objectives of Amendment 5
- To eliminate Section 2.4.3.4 sub-option related to the length of carrier vessels and add Section 2.4.3.5.2 for a dual option for carrier vessels
- To modify Section 2.9.3 so that it would read "this option would establish a top priority for cooperative research to establish a video monitoring pilot program. Requirements for using a video monitoring system would be added to the list of items that can be implemented through a framework adjustment." Also modify Section 2.9.4 to read "Option: Electronic Monitoring" – Require a Height or Bottom Contact Sensor for determining the amount of bottom contact of trawls during each tow (language in 2.9.2 will reflect top priority for cooperative research instead of RSA)
- That under Section 2.6.2.2, the following species be removed: highly migratory species, striped bass, and monkfish
- To include Section 2.6.4.2 new option for disposal of non-permitted catch

That, as one alternative, river herring hotspots will be based on ¼ degree squares where NEFOP river herring weights have been greater than 40 pounds for at least one tow from 2005-2009. Hotspots will vary seasonally (bi-monthly) and be based on the PDT analyses. NMFS BTS candidate river herring hotspots based on the 75<sup>th</sup> quartile identified by the PDT will become actual seasonal hotspots (survey seasons) when NEFOP data document river herring catch greater than 40 pounds in any tow. As a second alternative, river herring hotspots will be based on ¼ degree squares where NEFOP river herring weights have been greater than 129 pounds for at least one tow from 2005-2009. NMFS BTS candidate river herring hotspots based on the 75<sup>th</sup> quartile identified by the PDT will become actual seasonal hotspots when NEFOP data document river herring catch greater than 129 pounds in any tow

That the threshold for river herring bycatch that would trigger move along strategies would be either greater than 50 pounds on a trip, 500 pounds on a trip, or 2,000 pounds on a trip, and that the time vessels would be required to remain out of the quarter degree squares where the trigger was reached would be either one week or two weeks

To add a third alternative for an upper threshold of greater than 1,233 pounds for identifying hotspots. Under this alternative, river herring hotspots will be based on ¼ degree squares where NEFOP river herring weights have been greater than 1,233 pounds for at least one tow from 2005-2009. Hotspots will vary seasonally (bi-monthly) and be based on the PDT analyses. NMFS BTS candidate river herring hotspots based on the 75<sup>th</sup> quartile identified by the PDT will become actual seasonal hotspots (survey seasons) when NEFOP data document river herring catch greater than 1,233 pounds in any tow

To add an alternative that would apply the Closed Area I Final Rule provisions when an observer is on board the vessel

For a hotspot closure (from the move alongs), that all fishing ceases upon the date/time that the closure is established

For Alternative 7 (closed areas), to include all permit categories A, B, C, and D; and to exempt vessels using mesh greater than or equal to 5.5 inches

With the exception of Section 3.3.4 (Alt 7), measures to address river herring bycatch in Amendment 5 would apply to (option 1) A, B, and C vessels; and (option 2) A, B, C, and D vessels

That the Council prioritize a joint Groundfish/Herring Action (as part of Herring Amendment 5) to establish criteria for midwater trawl vessel access to the groundfish closed areas

To amend Section 5.1.3 (Mackerel Alternative 3) that would increase the open access possession limit to 20,000 pounds in Areas 2/3 only for vessels that also possess a limited access mackerel permit