



New England Fishery Management Council

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FINAL MEETING SUMMARY

Herring Committee

Holiday Inn, Portsmouth NH

November 4, 2014

The Herring Committee met on November 4, 2014 in Portsmouth NH to: review updated information about the industry-based river herring bycatch avoidance program (MA DMF/SMASST/SFC); review/discuss information related to consideration of adding river herring and shad as stocks in the Atlantic herring fishery (and develop recommendations); discuss possible upcoming herring-related management actions and develop recommendations for the Council to consider regarding Atlantic herring management priorities for 2015; and review/discuss options under consideration in the NMFS-led omnibus Industry-Funded Monitoring Amendment to address observer coverage on Atlantic herring vessels.

MEETING ATTENDANCE: Doug Grout (Chairman), Matt McKenzie (Vice Chair), Pete Kendall, Vincent Balzano, Mary Beth Tooley, Jeff Kaelin, John McMurray, Terry Stockwell, Peter Christopher (9 Herring Committee members present, Gibson and Pierce absent); Lori Steele, Rachel Feeny (NEFMC staff); Carrie Nordeen (NMFS GARFO staff); Mitch MacDonald (NOAA General Counsel); Chris Weiner (Herring Advisory Panel Chairman); Gerry O'Neill, Dave Ellenton, Jennie Bichrest (Herring Advisory Panel members); Brad Schondelmeier and Bill Hoffman (MA DMF), Dave Bethoney (SMASST), Erika Fuller, Glenn Robbins, Patrick Paquette, JJ Bilodeau, Steve Ouellette, Shaun Gehan, other interested parties.

KEY OUTCOMES

The Herring Committee passed the following motions during this meeting:

- That the Council maintain its current approach in providing conservation measures for River Herring/Shad and not add River Herring/Shad as stocks in the Atlantic herring fishery or initiate a separate FMP for River herring/Shad. This item should be removed from the list of priorities for Atlantic herring at this time.
- That the highest priority for 2015 for Atlantic herring is the development of the 2016-2018 herring specifications package, including modifications to the RSA program and development of the ABC Control Rule.
- That the RH/S CV-based coverage target alternatives related to RH/S catch not be included in the range of alternatives for the IFM amendment unless they can be expanded to include all Category A and B herring vessels and meet the goals/objectives of Amendment 5.
- To support the development of a EM/portside sampling option for herring vessels.

Detailed minutes of the November 4, 2014 Herring Committee meeting are provided below.

HERRING PLAN DEVELOPMENT TEAM (PDT) AND HERRING ADVISORY PANEL (AP) REPORT

Ms. Steele, Herring Plan Development Team (PDT) Chairman, provided the Herring Committee with a brief overview of the October 29, 2014 Herring PDT Meeting. She summarized the Herring PDT comments and recommendations regarding the prioritization of Atlantic herring management actions in 2015 and issues related to the development of the 2016-2018 Atlantic herring fishery specifications package.

- Mr. Kaelin suggested that the Council ask the Science Center to explore the ability to develop measures to protect spawning fish in the upcoming stock assessment scheduled for June 2015. Ms. Steele noted that the upcoming assessment is scheduled to be an operational assessment (update only) and is not likely to address new/additional issues, but she agreed to follow-up regarding this issue.
- Dr. McKenzie asked if forage-based control rules would be considered as part of the range of alternatives for the acceptable biological catch control rule (ABC CR), to be developed during the 2016-2018 specifications process; Ms. Steele responded that the timeline for developing the ABC CR should allow for consideration of a complete range of alternatives and acknowledged that forage considerations will be discussed/addressed when developing the Atlantic herring ABC CR.
- Mr. McMurray asked for clarification regarding the role of the Council's Risk Policy Working Group in the development of the herring ABC CR. Ms. Steele stated that the RPWG will develop some initial recommendations, which will be reported to the Council in April 2015 when the Council begins to identify the range of ABC CR alternatives to consider further in the specifications package.
- The Committee briefly discussed the possibility that a trailing management action would be necessary following completion of the 2016-2018 specifications package, depending on the ABC CR selected by the Council. Ms. Steele and NMFS staff clarified that a trailing action may be necessary to implement any changes to reference points, rebuilding programs, or similar provisions within the Fishery Management Plan (FMP), but the need for this remains to be seen at this time.

Chris Weiner, Herring Advisory Panel (AP) Chairman, presented the report from the Herring AP meeting on November 3, 2014 (see November 3, 2014 Herring AP Report for a full summary of the AP discussion and related recommendations).

- Mr. McMurray asked for clarification regarding the Herring AP's position on developing an amendment to consider catch shares in the Atlantic herring fishery. Mr. Weiner indicated that the AP had a relatively lengthy discussion regarding the issue but reached no consensus regarding a position. Some advisors expressed support, others expressed opposition, and some questioned the timing and need for developing a catch share amendment at this time.
- The Committee briefly discussed the Herring AP (and Herring PDT) recommendation that NMFS (GARFO) begin to utilize portside sampling data for monitoring river herring and shad (RH/S) catch against the catch caps (in addition to observer data). Ms. Tooley acknowledged the importance of the portside sampling program and while expressing general

support for the recommendation, she also expressed concern that this could affect participation in the program, which is currently voluntary. Mr. Kaelin agreed and cautioned about moving forward too quickly. Mr. Stockwell expressed concern about future funding for the state portside sampling programs.

PRESENTATION: SMAST/MADMF/SFC RIVER HERRING BYCATCH AVOIDANCE PROGRAM

Brad Schondelmeier presented an overview/update of the river herring bycatch avoidance program coordinated by MADMF with UMASS Dartmouth School of Marine Science and Technology (SMAST) and the Sustainable Fisheries Coalition (SFC). Overall, the Herring Committee members expressed continued support for the bycatch avoidance program as well as the portside sampling programs conducted by MADMF and ME DMR. Several questions were addressed during the discussion:

- Mr. McMurray asked why vessels would not discard RH/S on trips when there is no observer on board and questioned the incentive to bring RH/S catch back to the dock, especially if the trip will be sampled portside. Mr. Schondelmeier noted that vessel operators have no prior knowledge as to whether the trip will be sampled at the dock. Ms. Tooley added that there is incentive to be allowed to continue to fish and stated that there is a high degree of trust between the principal investigators and participating vessels.
- Dr. McKenzie asked for clarification regarding the poundage associated with trips that are classified as high/medium/low bycatch. He also wondered about the potential to associate the catch to particular RH/S runs. He expressed support for the program but emphasized the need to establish a direct linkage of the program to bycatch reduction.
- Dr. Bethoney mentioned a recent publication by Patrick Lynch that investigates changes in fishing behavior under avoidance programs.
- Mr. Robbins encouraged the investigators to engage with the purse seine fleet. Mr. Paquette noted that small percentages of bycatch on some herring trips could be larger than some individual spawning runs. Ms. Fuller asked for clarification about bycatch from Statistical Area 521.

DRAFT DISCUSSION DOCUMENT: ADDING RIVER HERRING AND SHAD AS STOCKS IN THE ATLANTIC HERRING FISHERY

Ms. Steele presented an overview of the draft Discussion Document addressing considerations related to adding river herring and shad as stocks in the Atlantic herring fishery (stocks in the fishery, SOF). The Herring Committee discussed several related issues.

- Dr. McKenzie noted that while there may be many challenges associated with adding RH/S as SOF, they are not insurmountable. He added that this situation presents an opportunity for the Council to outline a clear path forward for any new fisheries that may emerge in the future.
- Mr. Christopher asked when the SOF Discussion Document would be finalized and expressed concern about developing a recommendation to the Council based on a draft document. Ms. Steele stated that the Discussion Document was essentially complete but remained as a draft for this meeting because of the limited time for review prior to the Herring Advisory Panel and Committee meetings. She added that the document will be

finalized with only minor revisions. Later, after further discussion, the Herring Committee agreed that any recommendation regarding adding RH/S as SOF would go forward to the Council with a staff presentation of the final Discussion Document, likely at the January 2015 meeting. If there is a need to reconsider the 2015 Atlantic herring management priorities, it could be addressed at that time as well.

- Mr. Kaelin felt that the Discussion Document adequately addresses the questions raised on p. 4, and he suggested that the Herring Committee finalize its position on the SOF issue. He added that the Mid-Atlantic Council's recently-formed RH/S Committee provides both Councils with a framework for some oversight regarding this issue. He encouraged both Councils to focus on how to assist the ASMFC and NMFS in monitoring the status of the RH/S resources in Federal waters.

1. MOTION: TOOLEY/BALZANO

That the Council maintain its current approach in providing conservation measures for River Herring and not add River Herring as a stock in the Atlantic herring fishery or initiate a separate FMP for River herring. This item should be removed from the list of priorities for herring in future actions

Discussion on the Motion: Ms. Tooley responded to the four questions on p. 4 of the Discussion Document (in italics below) and added that her motion supports alternative 1 in the document, which maintains the current management approach for RH/S in Federal waters:

- (1) Are RH/S stocks in need of additional conservation and management in Federal waters? *They were in need of additional management a few years ago, but there are currently multiple efforts ongoing in Federal waters to address this need.*
- (2) How would RH/S stocks benefit from being included as stocks in the Atlantic herring fishery? *It doesn't appear that they would benefit further, as current management measures would not likely change.*
- (3) Is it practicable to manage RH/S stocks as a unit and/or in close coordination throughout their range? *No, the range is from Labrador (Canada) to Florida, and it would be very difficult to manage these stocks as a unit.*
- (4) Would conservation and management of RH/S stocks through a Federal FMP be unnecessarily duplicative? *Yes, it would duplicate management efforts between the New England and Mid-Atlantic Councils, the ASMFC, and NMFS.*

Dr. McKenzie asked if this motion would bind the Council in terms of making decisions regarding future management actions to address RH/S; Ms. Tooley responded that it would not bind the Council in the future, but there is a need to pare down the current list of management priorities, and this motion would take the SOF issue off the priority list for the time being (i.e., unless/until there is a need to reconsider action sometime in the future). Ms. Steele asked for clarification as to whether the motion addresses both river herring and shad, and Ms. Tooley confirmed that it does.

MOTION #1 PERFECTED:

That the Council maintain its current approach in providing conservation measures for River Herring/Shad and not add River Herring/Shad as stocks in the Atlantic herring fishery or initiate a separate FMP for River herring/Shad. This item should be removed from the list of priorities for Atlantic herring at this time.

Further Discussion: Mr. Kaelin noted that NMFS provided an extensive list of Federal agencies involved in the conservation and restoration of river herring as part of the negative listing determination under the Endangered Species Act. Ms. Fuller and Mr. Paquette expressed opposition to the motion. Ms. Fuller added that a Council action cannot be duplicative because the ASMFC does not have management authority in Federal waters.

MOTION #1 (PERFECTED) CARRIED 4-2-2.

OPEN PERIOD FOR PUBLIC COMMENT (NOT ON THE AGENDA)

- Mr. Robbins stated that there were many lobster traps lost this year due to midwater trawl vessels. He asked the Committee to ban trawling in all of Area 1A year-round.
- Mr. Weiner expressed support for a midwater trawl gear ban. Otherwise, he suggested that the Council push midwater trawl effort offshore and away from the backside of the Cape. He suggested that all of Area 1A and the backside of Cape Cod become a year-round purse seine/fixed gear only area.

DISCUSSION OF 2015 ATLANTIC HERRING MANAGEMENT PRIORITIES

Ms. Steele reviewed the August 2014 memo from Herring Committee Chairman Doug Grout re. possible 2015 herring management priorities as well as the Draft Action Plan for the 2016-2018 Atlantic herring fishery specifications. She also briefly summarized the Herring PDT recommendations regarding 2015 Atlantic herring management priorities.

2. MOTION: TOOLEY/KAELIN

To recommend that the highest priority for 2015 for Atlantic herring is the development of the 2016-2018 herring specifications package, including modifications to the RSA program and development of the ABC Control Rule

Discussion on the Motion: Mr. Kaelin noted that implementing the specifications more than half way through the next fishing year continues to be problematic. Mr. Paquette and Ms. Fuller expressed concern about addressing the ABC CR in the specifications package and asked for clarification from NMFS regarding the October 17, 2014 correspondence from John Bullard. Ms. Nordeen noted that the approach outlined in the Draft Action Plan for the 2016-2018 herring fishery specifications builds in time for the Council to provide more risk policy guidance and for the SSC to consider forage and other issues in more detail. She stated that the Council has the flexibility to set ABC and the ABC CR in the fishery specifications package and that if this process necessitates changes to biological reference points or other FMP elements, these adjustments can be made in a trailing action.

MOTION #2 CARRIED 6-0-1.

3. MOTION: TOOLEY/KAELIN

Recommend that, as a secondary management priority in 2015, the Council initiate an informal pre-amendment scoping process in 2015 to explore the development of a new management structure which would allocate allowable harvest to individuals, cooperatives, or other entities to mitigate the impacts of a derby-style race for herring and bycatch caps in the fishery. This development should address measures to improve stock conservation by creating vessel-level and/or cooperative-level incentives to eliminate wasteful fishing practices, provide mechanisms to control and reduce bycatch, and create accountability measures

Discussion on the Motion: Ms. Tooley clarified that her intent is not to initiate an amendment for catch shares in 2015, but as a secondary management priority, to create an informational document and have scoping-type meetings and/or a workshop to begin to identify the problems/issues to address and scope the level of industry support for catch shares. Mr. Stockwell anticipated that this process would result in a lot of input from many stakeholders, including comments about other approaches for managing the herring fishery. He cautioned that the workload associated with this motion could be significant. Ms. Bichrest expressed concern about catch shares and encouraged the industry to discuss this issue further first. Mr. Robbins felt that this approach would “hurt the little guy.” Mr. Ouellette stated that it would not be appropriate to allocate Council resources to try to convince stakeholders that this is a good approach and he suggested that this not be added to the Council’s plate at this time. Mr. Weiner expressed opposition to the motion and noted that a catch share approach would lead to consolidation and would hurt the little boats. Mr. Balzano noted that the herring industry is already consolidated, and he encouraged participants in the fishery to get together and form a more formal position regarding this issue. Mr. Kaelin expressed support for the motion and for considering catch shares; he added that this is a possible solution to many concerns and that it is generally supported by the industry. He also expressed dismay at the general opposition by other stakeholders and felt that the opposition is simply resulting from industry support for considering this approach.

MOTION #3 FAILED 2-4-2.

HERRING OBSERVER COVERAGE OPTIONS IN OMNIBUS IFM AMENDMENT

The Herring Committee briefly discussed the range of options under consideration in the NMFS-led omnibus amendment to establish provisions for industry-funded monitoring (IFM) across all fisheries. Without more detailed analysis available, it was not possible for the Committee to specifically refine the range of options under consideration to address observer coverage requirements on limited access herring vessels. Instead, Committee members asked clarifying questions and provided general feedback for the IFM Fishery Management Action Team (FMAT) to consider further.

Ms. Tooley expressed concern that the RH/S-based option for allocating observer coverage does not appear to be consistent with the goals and objectives of Amendment 5, which is to improve the accuracy of catch and bycatch of all species in the herring fishery. She questioned why the analysis focused on fleets from the Standardized Bycatch Reporting Methodology (SBRM) and why allocating observer coverage by permit categories could create bias within the SBRM.

Without complicating the analysis or delaying the amendment, she encouraged the IFM FMAT to reconsider the goals/objectives of Amendment 5 and include all sectors of the herring fishery (not just the midwater trawl fleet) in any options that allocate observer coverage to limited access herring vessels.

4. MOTION: TOOLEY/KAELIN

That the RH/S CV-based coverage target alternatives related to RH/S catch not be included in the range of alternatives for the IFM amendment unless they can be expanded to include all Category A and B herring vessels and meet the goals/objectives of Amendment 5

Discussion on the Motion: No further discussion.

MOTION #4 CARRIED 4-1-1.

5. MOTION: KAELIN/KENDALL

Include the development of a EM/portside sampling option for the midwater trawl fleet

Discussion on the Motion: It was unclear how this option could be fully developed in the current time frame for completing the IFM amendment.

MOTION #5 PERFECTED:

Support the development of a EM/portside sampling option for herring vessels

Further Discussion: None.

MOTION #5 (PERFECTED) CARRIED UNANIMOUSLY.

6. MOTION: TOOLEY/KAELIN

To recommend to the Council that river herring and shad be added to the SBRM

Discussion on the Motion: Mr. Kaelin noted that this motion supports the Herring Advisory Panel recommendation to consider/address RH/S catch across all fisheries. Ms. Fuller asked what this approach may do in terms of observer coverage allocated to midwater trawl vessels. Ms. Nordeen stated that a full analysis would need to be conducted, but that based on available information, this approach would not likely increase observer coverage on midwater trawl vessels, but may increase coverage on other sectors that catch/discard RH/S like the small mesh bottom trawl and large mesh gillnet sectors.

MOTION #4 FAILED 2-3-1.

The Herring Committee meeting adjourned at approximately 5:20 p.m..