



## New England Fishery Management Council

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### MEETING SUMMARY

#### Herring Committee

Sheraton Four Points, Wakefield, MA

March 3, 2020

The Herring Committee had a half day meeting in the afternoon to: 1) review herring timelines and work priorities for 2020; 2) discuss goals and potential range of alternatives for Framework 7, an action to protect spawning of Atlantic herring on Georges Bank; 3) develop Framework 8 (2021-2023 specifications and adjust herring measures that potentially inhibit the mackerel fishery); and 4) review and approve Council research priorities related to herring.

The Atlantic States Marine Fisheries Commissions (ASMFC) hosted a public hearing before the Committee meeting, and the Herring Advisory Panel (AP) met in the morning.

**MEETING ATTENDANCE:** Peter Kendall (Chair), Rick Bellavance (Vice-Chair), Vincent Balzano, Peter DeFur, Emily Gilbert, Peter Hughes, Melissa Smith, Matt McKenzie, Melanie Griffin, John Pappalardo, Cheri Patterson, Terry Stockwell. Absent: Scott Oslzewski and Ritchie White. Staff: Deirdre Boelke (NEFMC), Rachel Feeney (NEFMC), Carrie Nordeen (NMFS), Mitch McDonald (NOAA GC), Alyson Pitts (NMFS).

#### **KEY OUTCOMES:**

- The Committee approved draft objective language for Framework 7, the GB spawning action, which expands the scope to include protections for herring egg beds. The intention is to include measures for other fisheries that may have negative impacts on herring egg beds, not limited to just the herring fishery.
- The Committee recommends the Council discuss the Council/Commission authorities as they relate to Atlantic herring management. In addition to discussing this issue at a future Council meeting, the Committee also recommends the Council request NOAA send a letter to the Commission to clarify these authorities.
- The Committee passed two motions relative to research priorities: one to approve the PDT recommendations outlined in the memo, and another motion to include the addition the AP recommended about potential impacts of fishing on herring egg beds.

## **Review of herring actions and 2020 work priorities**

Staff reviewed the status of recent actions and plan for 2020 herring actions and tentative meeting schedule. There were no questions or comments about the timelines.

### **Framework 7 – GB Spawning**

Staff reviewed some slides about the discussion document that was contracted out in 2019 as well as a draft action plan. Mr. Bert Jongerden summarized the AP input on this topic. In summary, the AP supports including focus on herring egg mats, but concerns were expressed that there is not ample information available to develop this action now and the AP recommends work on Framework 7 should be delayed (see AP meeting summary for the detailed reasons why).

One Committee member asked for more detail on what we know about herring egg mats. Staff explained that there may be more information available, but to date the info is relatively limited. Another Committee member asked how the herring stock recovered from being overfished several decades ago. This was not discussed at length but a handful of measures likely played a part including favorable environmental conditions. Another Committee member asked to clarify the location this action is supposed to focus on – staff explained that the Council motion included all areas except for Area 1A, but the Committee should try to clarify the intent today. Should the action have measures in all management areas (1B, 2 and 3) or was the intent to look at more general areas like Georges Bank and Nantucket Shoals?

The Committee was tasked with developing a more specific objective for this action. One Committee member asked what is meant by “increase herring biomass” in the draft objective language. Staff explained that term was not in the Council motion and it would be very helpful to hear more from the Committee today about the reasons why the Council wants to protect herring spawning to help develop the range of alternatives. One Committee member commented that the intent seems to be about improving the input to the stock by enhancing spawning stock biomass, success of the eggs, larval recruitment, etc., and not to develop measures that would focus on reducing fishing mortality as a way to increase biomass for example.

One Committee member asked if there is a robust monitoring program in place to tell us when and where spawning is taking place on Georges Bank. It was explained that the state of Maine does have a program in place that monitors spawning condition (GSI index) to support the spawning closures in Area 1A. The state of Massachusetts does work up some GSI samples, but the size of the program is much smaller. RSA funds have been used in the past to support the portside sampling program for the bycatch avoidance program, but that does not include GSI sampling. Sampling efforts would need to be expanded to provide the same level of detail on real-time GSI for areas outside on Area 1A.

To get the ball rolling, one Committee member made a motion to recommend the objective of this action focus on protection for spawning adults as well as herring egg beds.

#### **1. McKenzie/Patterson**

**Recommend the objective of Framework 7 be:**

**Develop measures to protect spawning adults of Atlantic herring and/or Atlantic herring egg mats to increase overall herring biomass. The objective of this action is to consider similar measures as in Area 1A for other spawning components of this resource (i.e. Georges Bank and Nantucket Shoals).**

*Rationale: We have a good body of data available in the discussion document, we need to get the ball rolling, and the best way to do this is to start developing alternatives. There is precedence for this, there have been spawning protections in place in Area 1A that restrict herring fishing activity when adult herring are in spawning condition. Those spawning closures in Area 1A were part of a suite of measures that probably helped the stock recover. The Council wanted this Committee to develop this action so let's get started.*

***Vote: 9:1:1, motion carries***

The motion was perfected to include “and/or” before herring egg mats to clarify that if there is not enough information to support measures for adult herring or herring egg mats, the action could focus on just one. The maker of the motion clarified that the intent of the motion is to leave the door open in terms of which fisheries this action could include. He explained that as we proceed we may develop alternatives that restrict other fisheries in the region, not just the herring fishery. Staff commented that may extend the timeline of this action if other fisheries are included, potentially including input and support from other PDTs, APs, and Committees.

*Audience comments:*

- The discussion document is thorough, you are not going to find more info. Fishery interactions with spawning fish are rare, overlap is small and there is not a lot of bycatch of herring in other fisheries. The document shows that closing areas to the herring fishery are not going to achieve anything because the overlap is low. However, the Committee is listing the objective of this action to do just that. There is no real basis to the argument that these closures will improve spawning stock biomass because there is no spawn: recruit relationship in this assessment. Success of herring spawning is environmentally driven. Yes, we can learn more about egg beds, we do not know a lot, but the fact is we do not have concrete data on that topic. Yes, when herring are ripe and running they do aggregate, they are easier to catch, they are heavier and close to the bottom, so we avoid them then. We do not want spawned fish – the bait market does not want spawned fish. This action is illogical because there is little overlap, the fishery does not target spawned fish, and based on the info you have before you there would be no benefits to spawning stock biomass from spawning closures.
- The Committee should be reminded of the reasons NMFS disapproved these measures in 1999 (page 16 of discussion document); nothing has changed, there is little interaction and there is no stock: recruit relationship, so little benefits to the resource from spawning closures.
- I support spawning closures, but concerned that if the scope of this action is expanded too far it will never happen. Stock: recruitment is a hard question and we will never answer that, it seems common sense should rule here – dragging through egg beds and fishing herring right before they spawn is going to have negative impacts on recruitment. Instead we should let the fish spawn and recruitment will improve. Protecting fish when they are ripe and running will have a positive impact, I disagree there will be no benefits from spawning protections.
- Herring are not inshore, we are not finding them in the areas they used to be. We need to travel to Canada, 50-60 miles to see whales, not the 20-30 miles we used to travel before. Environmental reasons are probably the reason why the stock has decreased, but protections inshore and offshore will help, we are in a position we need to do everything we can. It is critical that this stock turns around. The discussion document is remarkable, it is a review and analysis of spawning on Georges Bank, it is not about interactions with fisheries, that is a different question.

- I do not support the motion; the AP recommends stopping Framework 7 because the data is just not there to support such an extreme amount of expense and time. Take those resource and get better data from IFM, get more samples of fish. Do that for a few years and then look at this. I see this change every year, the dates and areas vary and our fishery has very small overlap.

*Committee discussion:*

One member commented that he appreciates the AP comments, but spawning protection has worked pretty well in Area 1A from his perspective and with the stock at such low abundance it seems prudent to consider measure that could help rebuild the stock in a more timely way. We should not wait, maybe some measures may need more info and will have to wait, but others may be ready to go now. Another commented that in general spawning measures are worth considering and it is worthwhile looking at this right now, but we need to be mindful of other measures that are in play. If we do not have enough on egg mats we may need to drop that from the document later. Having the same program we have in Area 1A may not be feasible, but there may be other options. Another commented that there likely are benefits from spawning protections, but we may not have enough to implement measures like we have in Area 1A for the other areas.

The Committee did not talk about a specific range of alternatives, but provided some direction for PDT analysis. The PDT should look egg mats, which fisheries may have impacts (mobile and static), and for closure dates the PDT should look at default dates because implementing real time monitoring of spawning closures is very time and resource intensive. It was argued that our approach has to be simpler.

One Committee member added that we are here working on this action to stay one step ahead of the Commission; they intend to take action if the Council does not. This is a priority for the Commission. Attorney McDonald wanted to remind the Committee and Council that this is a federal FMP, especially in federal waters the Council drives the bus. You do not need to adjust your decisions on management to address the concerns of other bodies. You can take them into account but your primary objective is management the federal fishery. This is your primary consideration, you can take different regions and interests in order to develop a holistic plan. However, I would recommend standing your ground in federal waters and not allowing other groups or bodies dictate what you do.

One Committee member asked what happens if federal fisheries are prohibited from landing in certain states. Attorney McDonald responded that it has been a concern for a while about how state rules are affecting the federal fishery, and GARFO and I have commented a few times over the past years that the state plans must be consistent with federal plans. To the extent that state rules substantially and adversely affect the federal plan that needs to be identified by the Council for the Agency's consideration. And to the extent it is allowed to continue, may indicate that something is not a substantial affect and maybe there is consistency. But it is important for the Council to monitor that. From his reading it seems that in the past there may have been closer coordination on herring management, and maybe that is more lacking in recent years. But the intent from the beginning, you can see it in the regulations, was for there to be coordination to avoid conflict, take different interests into consideration, and try to develop consistent measures that do not adversely and substantially affect the federal plan where the majority of the fishing takes place.

The Committee members commented that there are different sentiments on this issue and it would be helpful to share these details with the ASMFC Herring Board. A question was asked if the Council is the only body that can raise concerns about ASMFC measures potentially having substantially and adverse

effects that are not consistent with the federal plan. It was explained that the Council is a natural place for those issues to rise up, so the Agency can hear them and direct resources to assist, but they could be raised by others.

The Committee then moved to specific tasking for the PDT for Framework 7. First, the Committee requested that the PDT identify possible default dates for potential spawning closures based on the information available. The Committee did not want to limit the specific level of spawning maturity the dates should be based on (i.e. % of GSI). It was pointed out by a PDT member present at the meeting that it may be useful to use the same triggers that are in place for the ASMFC measures to be consistent. Next the Committee tasked the PDT to identify a range of spatial closures that could be considered further, in particular focusing on adult herring first, and egg mats if possible.

After the Framework 8 discussion the Committee circled back to the earlier discussion about Council/Commission authorities in herring management. One Committee member explained that the NRCC has been talking about this issue for several years with no real definitive resolution. Therefore, it was requested that the same description Attorney McDonald gave today should be shared with the full Council at the April Council meeting and the Council should consider writing a letter to NOAA requesting they explain these authorities to ASMFC as well. We go through this over and over. One Committee member asked if this response would have impacts on other bodies and fisheries that work with ASMFC, namely the MAFMC has several plans that are jointly managed with ASMFC, would this input have the same standing for other plans? Attorney McDonald responded that each fishery has different circumstances and he would need to review that. Also, he explained that NOAA has sent correspondence on this topic to ASMFC in the past. A staff member from ASMFC that was present at the meeting explained that there are different plans, some are complimentary plans like herring, and some are jointly managed like summer flounder. One Committee member did voice that recent actions have increased collaboration in the herring plan, there is more overlap on the PDTs, the Herring Section has become a Board, and ASMFC has a seat on the Council Herring Committee.

## **2. Stockwell/Balzano**

**Recommend the Council add an agenda item about Council/Commission authorities in April 2020, or when feasible, and also request the Council request NOAA send a letter to ASMFC outlining Council and Commissions authorities as they relate to Atlantic herring management.**

*Vote: 7:0:4, motion carries*

## **Framework 8 – 2021-2023 specifications and mackerel measures**

Staff reviewed some slides for background. Mr. Jongerden reviewed the AP input related to this action. There were several comments related to whether this action would need to adjust the management uncertainty buffer if the incidental catch limit is increased to 40,000 pounds from 2,000 pounds. One question came up if this action could look at different management uncertainty buffers by area. And some concerns were voiced from the audience that too much fish is already taken off the table for Canada and other buffers. Opposition was voiced that increases in the possession limit in Area 1A could be very problematic, these incidental limits could be similar or even higher than directed trips under such low quotas. Another commented that increasing the incidental limit for all permit categories could be challenging in Area 1A, perhaps only Category A permits could have higher limits to prosecute mackerel. We would not want a loophole where vessels do not declare in the herring fishery and fish under

increased incidental herring possession limits. It was also pointed out that this action could potentially revisit the percentage when the directed fishery is closed. For example, in the past when a sub-ACL reached 95% the directed fishery would close, but that was shifted to 92%. Is that still justified, has monitoring improved to close areas before overages occur? Finally, another speaker argued that there must be a way to adjust the incidental limit so vessels can target mackerel and not have to travel great distances.

The Committee supported the list of PDT tasks developed by the AP earlier that day, including whether management uncertainty buffers or triggers for implementing incidental catch limits would adjust as a result of measures considered in this action. Staff explained that the PDT will brainstorm different ideas and confirm what is frameworkable in this action. The Committee also gave some input about possible alternatives for development: consider a range of possession limit options up to 40,000 pounds, and sub-options for where that increase would apply to – possibly leaving out Area 1A and/or Area 1B.

### **Research Priorities**

Dr. Feeney reviewed the PDT recommendations for updated research priorities related to herring. One Committee member asked if sources of funding have been identified for all these priorities, in particular the increase in sampling for spawning. Staff responded that some funds are available for that purpose through ASMFC, but the status of those funds is unknown. Another Committee member offered some additional refinements to the factors influencing recruitment (i.e. larval development, egg size, yoke size, etc).

#### **3. Hughes/Stockwell**

**Recommend the Council add a research priority for the herring plan: “research the potential impacts of fishing (mobile and static bottom tending gears) on herring egg mats”, and identify it as “Strategic” for priority level.**

*Vote: 9:0:0, motion carries*

#### **4. Pappalardo/Hughes**

**Recommend the Council add the three new herring research priorities outlined in the Herring PDT memo.**

*Vote: 9:0:0, motion carries*

### **Other Business**

Staff summarized that Tim Donovan from NOAA Office of Law Enforcement attended the AP meeting in the morning to explain the issue with satellite service expiring for one of the VMS units used in this region. Ms. Emily Gilbert from NMFS clarified the fourth approved unit, IFleetOne. A member of the audience shared that at least one of the new approved units does not currently include an SOS feature and that is a concern.