



New England Fishery Management Council

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Eric Reid, *Chair* | Thomas A. Nies, *Executive Director*

MEETING SUMMARY

Atlantic Herring Committee Meeting

Webinar

June 10, 2022

The Atlantic Herring Committee met on June 10, 2022 at 1:00 PM, via webinar to discuss: 1) 2022 work priorities and timeline; 2) Herring Advisory Panel report; 3) Framework Adjustment 7 to the Atlantic Herring FMP; 4) Industry-Funded Monitoring (IFM) Program for the Atlantic herring fishery; 5) 2022-2026 Council Research Priorities and Data Needs; and 6) Other business.

MEETING ATTENDANCE: Cheri Patterson (Chair), Rick Bellavance (Vice-Chair), Mark Alexander, Dan Farnham, Emily Gilbert, Melanie Griffin, Peter Hughes, Scott Olszewski, Dr. Mike Sissenwine, Geoff Smith, Melissa Smith, and Toni Kerns (alternate for Ritchie White); Dr. Rachel Feeney (PDT Chair), Angela Forristall, Chris Kellogg (NEFMC staff); Herring Advisory Panel Chair Megan Lapp; Carrie Nordeen (NMFS GARFO staff); Mitch MacDonald (NOAA General Counsel), Sara Weeks (NEFSC); Council Chair Eric Reid and Council member Megan Ware. In addition, about ten members of the public attended.

- **KEY OUTCOMES:** The Committee tabled a motion that would recommend to the Council that work discontinue on Atlantic Herring Framework Adjustment 7 to protect spawning herring on Georges Bank.
- The Committee recommended the updates to 2022-2026 Council research priorities related to herring as developed by the Herring Advisory Panel and Plan Development Team with a few exceptions.

Herring Committee Chair opened the meeting with introductions. There were no changes to the agenda.

BRIEF UPDATES

Framework 9. Ms. Emily Gilbert (GARFO) indicated that Framework 9 will likely be published at the end of June or in early July.

Disaster Relief. Ms. Gilbert also provided an update on the fishery disaster relief funding granted to Maine, Massachusetts, New Hampshire, and Rhode Island and explained the Regional Administrator will send out noncompetitive request applications to each state. States will return those and their spend plans for NOAA to review. She noted New Jersey did not qualify for funds but residents of New Jersey that land in one of the other four states can apply to that state for relief funds.

ASMFC Herring Board. Mr. Rick Bellavance provided an update on the 2022 FMP Review for Atlantic herring for fishing year 2021 and ballots submitted by states to approve the review. New York requested and was granted *de minimus* status.

Amendment 8. Attorney Mitch MacDonald (NOAA GC) updated Committee members on the status of the Amendment 8 (A8) lawsuit, stating there was a notice of appeal filed by the Department of Justice (DOJ) but there is no schedule yet.

Industry-Funded Monitoring. Ms. Gilbert informed Committee members there will not be federal funds available to cover the agency costs for the IFM Program in 2023, therefore the IFM program will be on hold after the 2022 IFM year (April 2022 – March 2023). The program has been funded through temporary sources and will be on hold until permanent funding is available. Ms. Gilbert clarified to a committee member that there was no long-term funding included in the 2023 budget. One committee member asked if that means there will be no monitoring of the herring fishery after IFM year 2022. Ms. Gilbert explained there will still be SBRM coverage but not the additional IFM coverage to meet the 50% coverage target.

Georges Bank haddock sub-ACL. Council staff shared that the Herring PDT has submitted a memo to the Groundfish PDT regarding the Georges Bank haddock sub-ACL for the Atlantic herring midwater trawl fishery. The Groundfish PDT must review this sub-ACL after a Georges Bank haddock stock assessment, and recommend a sub-ACL of 1 to 2%.

Public comment:

- Jeff Kaelin (Lund’s Fish, herring AP member) felt the 2 percent sub-ACL allocated in 2020 should be maintained. The CV on catch has been low and observer coverage has been good.

AGENDA ITEM #1: 2022 WORK PRIORITIES AND TIMELINE

Dr. Feeney shared a timeline for current Atlantic herring actions. The Regional Administrator is finalizing Framework 9 and the future schedule for Framework 7 is pending the outcome of the Committee and Council meeting. The herring assessment is currently ongoing, and scientists are preparing for the peer review on June 27. The Council will take final action on specifications in September. The Council will be reviewing 2022-2026 research priorities at the June meeting and discussions on next year’s work priorities will begin in the fall.

AGENDA ITEM #2: HERRING ADVISORY PANEL REPORT

Ms. Megan Lapp summarized the most recent Advisory Panel (AP) meeting. Many AP members supported putting FW7 on hold until the herring stock has rebuilt and there is sufficient funding for gathering gonad somatic index (GSI) samples. At the meeting, a PDT member shared the Maine Department of Marine Resources (DMR) commercial herring sampling program will be out of funds at the end of 2022 and there is no current herring Research Set-Aside (RSA) program to gather GSI samples. The AP supports including all the current recommendations. The AP passed a motion recommending the Committee consider initiating a framework action to revise the IFM weighting approach for the herring fishery. The AP does not feel the IFM program is appropriate since the fishery is in poor condition, the effort is low, and the program is a financial burden to the industry. When the AP discussed 2022-2026 Council research priorities, some AP members felt priorities pertaining to river herring and shad (RH/S) biology should be deleted or moved to an appendix since these species are managed by the Atlantic States Marine Fisheries Commission (ASMFC).

One committee member noted the industry finds information on RH/S bycatch helpful to avoid encountering these species and triggering a fishery closure. They asked why AP members are recommending moving these priorities. Ms. Lapp clarified the priorities the AP was recommending moving are those pertaining to biology and not bycatch or catch caps. She explained the AP felt research priorities and funding on RH/S biology should come from the bodies that manage it. A committee member asked Ms. Kerns (ASMFC) why the Atlantic Coastal Cooperative Statistics Program (ACCSP) is no longer funding Atlantic herring monitoring. Ms. Kerns explained the project managers have known funding will be ending for several years. This will allow ASMFC to fund new projects.

AGENDA ITEM #3: REVIEW OF FRAMEWORK 7 (ACTION TO PROTECT SPAWNING ADULTS OF ATLANTIC HERRING)

Council staff summarized the status of Framework 7 (FW7) and explained the goals for this meeting were for the Committee to review the progress to date and further develop alternatives or future steps. The Council previously narrowed the scope of FW7 to focus on adult spawners (not egg mats) and apply to vessels on herring trips. Staff shared concerns about enforcement and monitoring have been raised in the past and noted a Georges Bank (GB) spawning closure measure that was proposed by NEFMC in the original Atlantic Herring FMP was disapproved by NMFS. Staff reiterated AP members felt the framework should be put on hold until herring rebuilds, but if it does continue all alternatives should be further analyzed.

Attorney MacDonald discussed lessons learned from the recent Amendment 8 lawsuit and the previously disapproved spawning closures. He acknowledged FW7 has included geographic and seasonal analysis to reduce the impacts on the fishery whereas A8 was geographically expansive and closures were year-round. He emphasized there must be sufficient data to properly analyze the costs and benefits of closures.

One committee member asked why the ASMFC Gulf of Maine (GOM) closures in 1A were approved but the ones recommended by the NEFMC were not. Another committee member noted one reason the original closure was not approved was because it would not apply to bottom tending gear, only purse seiners and midwater trawl (MWT) vessels. Mr. MacDonald explained if an action excludes one gear type but not another, there must be sufficient data to support this decision.

1. MOTION: GRIFFIN/SISSEWINE

Recommend to the Council that work discontinue on Atlantic Herring Framework Adjustment 7 to protect spawning herring on Georges Bank.

Rationale: Catch of Atlantic herring on Georges Bank has continued to condense in time, farther and farther away from the spawning season. Meanwhile, disaster aid is being distributed to the fishery. The costs of additional development, implementation, monitoring, sampling, enforcement are real for both industry and government and just not a good investment when one considers the benefits are little to none while fishing activity fails to fall within the spawning period. At this time, it is not an efficient or well-justified potential use of limited observer resources (government and third party).

Discussion on the Motion: A committee member stated there is no clear articulation of what the objectives are and the conservation benefits are unclear, noting serious questions of legality would need to be discussed if the action is taken up later. A committee member was opposed to the motion since it would stop efforts attempting to improve protections for spawning herring and would rather modify FW7

so it would help advance herring rebuilding. Another noted this work should not be stopped while the fishery is rebuilding, but instead the Committee should consider what can be done to ensure rebuilding occurs in a positive direction.

The maker of the motion acknowledged the work that was done to brainstorm alternatives that would enable fishing in closed areas with human or dockside monitors but noted those options are unrealistic given the difficulty in acquiring observers and the lack of funds available to implement the IFM program. The upcoming stock assessment may provide additional information that would be helpful to determine better approaches for conserving herring. Multiple other committee members agreed.

One committee member asked for clarification on what *discontinue* would mean. The maker of the motion explained the intent was to stop any work on the action at this time but not preclude the Council from taking up the issue in a future action. Staff noted their interpretation of *discontinue* would be to end the action, and this would require a change in Council priorities and a two-thirds council vote. If the motion passes, there may be a need to postpone it because the June Council meeting notice only stated there would be an update on FW7. Discussing the discontinuation of an action would need to be included in the meeting notice. Multiple committee members supported postponing this motion until the September Committee meeting. Attorney MacDonald explained postponing to a time certain would only be for one meeting, which would be the June Council meeting. He stated the maker could table the motion and bring it back at the next Committee meeting.

A committee member expressed support for the motion as-is and stated the action is flawed since it only looks at one sector of the fishery. They noted the industry was not as organized when the GOM closures were put into place but there would likely be a lawsuit if a GB spawning closure was implemented.

Public Comment:

- MaryBeth Tooley (O’Hara Corporation) supported the motion as written, referencing data indicating incidences of MWT vessels encountering ripe and running herring are rare.
- Zack Klyver (Blue Planet Strategy) hoped that the committee would still consider working on this action even if it is postponed. He noted Atlantic herring have numerous stakeholders and species that depended on it and there should be a concerted effort to recover the stock. He noted the action includes specific information including the overlap analysis and rationale for seasonal closures.

1a. MOTION TO TABLE: GRIFFIN/M. SMITH)

Move to table Motion #1.

Cheri Patterson, Chair	No vote	Peter Hughes	Yes
Rick Bellavance, Vice-Chair	Yes	Scott Olszewski	Yes
Mark Alexander	Yes	Dr. Mike Sissenwine	No
Dan Farnham	Yes	Geoff Smith	Yes
Emily Gilbert	Yes	Melissa Smith	Yes
Melanie Griffin	Yes	Toni Kerns	Yes

MOTION #1A CARRIED 10/1/0

AGENDA ITEM #4: INDUSTRY FUNDED MONITORING (IFM) PROGRAM FOR THE ATLANTIC HERRING FISHERY

Ms. Nordeen summarized the IFM update given to the Council in April. She clarified the IFM prioritization process is a Council-led process, and the weighting approach currently allocates available funds equally across all IFM programs, but herring is currently the only program using this process. Changes in the weighting approach could be made via a framework action or amendment on an as-needed basis. Ms. Weeks noted that at this point all 18 trips Saltwater has observed have gone through a primary review and 12 have gone through a secondary review by the NEFSC. Observer trainings are underway to ensure observers are available for the opening of Area 1A. She noted there is funding available to help offset industry and provider costs, but it expires in September 2022. The NEFSC is attempting to spend as much of it as possible before then.

A committee member asked if the weighting approach is not applicable since there is only one IFM program to allocate funds to. Ms. Nordeen explained the weighting approach could still be changed as a way to revisit the Atlantic herring IFM program given the status of the stock and fishery. It was asked if the process would be prioritizing funds within the herring fishery or determining if the herring fishery is a priority to monitor relative to other fisheries. Ms. Nordeen explained the idea was that eventually there would be more IFM programs in place and the prioritization process gives the Council a voice on how federal funds are spread across fisheries.

Ms. Gilbert reminded the Committee there are no funds available to administer the IFM program in 2023 so if no action is taken by the Committee, the program would continue through IFM year 2022 but not again until funds are available. She reminded the Committee there is a requirement that the Council reviews the herring IFM program 2 years after implementation. This review will take place in 2023.

One Committee member asked if the trips that have gone through both primary and secondary reviews have shown agreement. Ms. Weeks explained the reviews have been in close agreement. Another Committee member asked Ms. Lapp what the intent of the AP members was when they asked for the weighting approach to be reconsidered. Ms. Lapp explained the industry did not think eliminating the program was an option, so the idea was to get the weighting off the herring fishery. Another AP member added there have been previous discussions the weighting approach could be linked to biomass.

One committee member stated this discussion is about changing the weighting approach for a program that the agency soon won't have money to fund, and the industry can't afford its share. They asked if the 50% coverage target is going to be achieved or if the program is going to be abandoned. Ms. Nordeen explained the program was designed so that the IFM coverage target would be achieved when NMFS has funding to cover the administrative costs, and the prioritization and weighting processes come into play when NFMS does not have funds to meet the full coverage target. However, since there will be no additional IFM monitoring in the herring fishery in 2023 only the SBRM coverage will apply.

AGENDA ITEM #5: REVIEW AND RECOMMEND ANNUAL ATLANTIC HERRING RESEARCH PRIORITIES

Council staff presented the PDT and AP recommendations on changes and clarifications for the 2022-2026 Council research priorities related to Atlantic herring, noting a recommendation by some AP members to delete or move research priorities related to RH/S biology to an appendix (no consensus). The RH/S priorities were first added to the list in 2019 when the River Herring Technical Expert Working Group (TEWG) was active.

There was a discussion by committee members on priority 76, which relates to data collection efforts to improve social and economic impact analysis. The AP and PDT recommended deleting this as a herring

priority, but Committee members felt it would be important to understand the economics of the fishery even when it is performing poorly. Staff explained the AP and PDT felt this applied to all fisheries and Atlantic herring did not need to be specifically listed. Committee members ultimately decided since groundfish is explicitly stated, Atlantic herring should be as well. Mr. Jeff Kaelin explained the AP wanted to put emphasis on what current research priorities will benefit the fishery, and with catch at 5 percent of the historic levels the AP did not feel an economic analysis would be beneficial at this time.

A committee member asked if having the RH/S priorities included in the Council Priority list helps ensure biological samples in federal waters are collected. Ms. Weeks replied it is likely helpful. One committee member noted this list is required by statute but does not dictate what will get funding and RH/S sampling and monitoring are closely connected. Numerous committee members supported leaving priorities about RH/S biology on the main list.

CONSENSUS STATEMENT 1:

The Committee recommends the updates to 2022-2026 Council research priorities related to herring as developed by the Herring Advisory Panel and Plan Development Team with the following exceptions:

- #76 – Keep Atlantic herring within this priority (data collection for socioeconomic analyses).
- #12, 13, 26 and 27 – Keep these river herring and shad priorities as written.

With no other business, the meeting adjourned at about 4:30 p.m.