



New England Fishery Management Council

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E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

FINAL MEETING SUMMARY

Herring Committee

Four Points Hotel, Wakefield, MA

June 2, 2016

The Herring Committee met on June 2, 2016 in Wakefield, MA, to make recommendations to the Council on: preliminary preferred alternatives for the herring components of the Industry-Funded Monitoring Amendment; a range of alternatives for a framework adjustment regarding the Georges Bank haddock catch cap and associated accountability measures; and review the outcomes of a Council-sponsored workshop on the current Management Strategy Evaluation of Atlantic herring Acceptable Biological Catch control rules. Under Other Business, the Committee received an update on mapping Atlantic herring fishing activity and spatial management boundaries and gave feedback on NOAA Office of Law Enforcement priorities

MEETING ATTENDANCE: Mr. Peter Kendall (Chairman), Dr. Matthew McKenzie (Vice-Chairman), Mr. Vincent Balzano, Mr. Peter Christopher (NMFS/GARFO), Mr. Doug Grout, Dr. Cate O'Keefe, Mr. John Pappalardo, Dr. David Pierce, Ms. Mary Beth Tooley, Mr. Jeff Kaelin (MAFMC). The Committee was supported by Council staff members Dr. Rachel Feeney (Interim Herring Plan Development Team Chairman), Ms. Deirdre Boelke, Dr. Jamie Cournane, Mr. Lou Goodreau, and Ms. Maria Jacob; and Mr. Brant McAfee and Ms. Carrie Nordeen (NMFS/GARFO); and Mr. Mitch MacDonald (NOAA General Counsel). In addition, about ten members of the public attended.

SUPPORTING DOCUMENTATION: Discussion was aided by the following documents and presentations: 1) meeting memo; 2) meeting agenda; 3a) Herring PDT meeting summary, April 14, 2016; 3b) Herring PDT meeting summary, May 23, 2016; 4a) Herring Advisory Panel meeting summary, March 15, 2016; 4b) Industry-Funded Monitoring (IFM) Plan Development Team memo, April 11, 2016; 4c) IFM PDT meeting summary, May 14, 2016; 4d) IFM Decision Document, May 26, 2016; 4e) Draft Environmental Assessment, May 27, 2016; 4f) GARFO staff presentation, June 1-2, 2016; 5a) Atlantic Herring - Georges Bank Haddock Action Draft Action Plan, May 27, 2016; 5b) Herring-GB haddock Draft Discussion Document, May 27, 2016; 5c) Groundfish PDT memo, May 27, 2016; 5d) Herring-GB haddock NEFMC staff presentation, June 1-2, 2016; 6a) May 16-17 2016 Management Strategy Evaluation Workshop summary; 6b) Amendment 8 NEFMC staff presentation, June 1-2, 2016; 7) Correspondence; 8) NOAA Office of Law Enforcement Northeast Division enforcement priorities for 2012-2017; and 9) Herring AP DRAFT meeting motions, June 1, 2016.

KEY OUTCOMES:

- Added an alternative to the IFM amendment and approved the range of alternatives.
- Selected the range of alternatives for the Georges Bank haddock cap and AM framework.
- No revisions to workshop recommendations regarding the Management Strategy Evaluation of Atlantic herring Acceptable Biological Catch control rules.

OPENING REMARKS:

Chairman Mr. Peter Kendall opened the meeting at 10:00 AM. He announced that Bert Jongerden has appointed to be Herring Advisory Panel (AP) Chairman and Chris Weiner will be Vice-Chairman. There were no agenda revisions. After the lunch break, Mr. Kendall welcomed Dr. Cate O’Keefe to the Committee, who sat in for Dr. David Pierce. Dr. O’Keefe has been appointed to be the MADMF representative on the Committee.

HERRING ADVISORY PANEL REPORT:

The Herring AP report from their meeting on June 1, 2016 was given by Committee Chairman Kendall. The AP made one motion and seven consensus statements. The AP reaffirmed its motions from the March 15 AP meeting regarding preferred alternatives for the IFM Amendment. The AP developed recommendations for measures to include in the Georges Bank haddock-Atlantic herring framework. The AP had no revisions to workshop recommendations regarding the Management Strategy Evaluation, but anticipates a lively AP discussion in August on localized depletion.

Committee discussion

Mr. Kaelin was surprised that the AP did not want to develop an area closure AM that would be implemented in the year subsequent to the year the cap was exceeded. Was the feeling that an in-season closure would have more accountability for the fleet?

Public comment

Mr. Gerry O’Neill (herring fisherman, MA, AP member) – The AP didn’t want to go that way. Perhaps it could be combined with other alternatives, but if there is no in-season trigger, you run the risk of going way over the cap and then risk having half or no cap in the following year (and thus no fishery). It may depend though on other measures in place.

Committee discussion

Dr. Pierce was surprised that the AP did not have any revisions to workshop recommendations. Were the workshop recommendations unclear? Chairman Kendall clarified that staff reviewed the workshop outcomes with the AP and that it was not anticipated that there would be many revisions to what was recommended. Some AP members were concerned with having a 30% buffer, did not want to take ideas off the table until after the simulations are done.

INDUSTRY-FUNDED MONITORING (IFM) AMENDMENT

IFM PDT update

Ms. Nordeen presented an overview of the IFM Amendment: reviewing alternatives and impacts and analysis and highlighted updates to the Draft Environmental Assessment (EA) in response to the motions made in April 2016 by the NEFMC and MAFMC. If the Council approves the draft EA in June, then there would be public hearings over the summer and the Council would be expected to take final action in September. Under this timeline, implementation would be expected in the spring of 2017. Each section of the presentation was followed by Committee discussion.

Committee discussion - alternatives

Mr. Pappalardo asked whether the Council could approve an aspirational alternative by selecting a particular percentage coverage, and select sub-option 1 (waiver when there is no sampler available to monitor trip) to allow fishing to continue when funding is limited. Ms. Nordeen affirmed that this is the general idea for this action.

Dr. Pierce asked about details regarding the notification that there would be no IFM program in years when there is no Federal funds to cover administrative costs. Ms. Nordeen clarified that in years when there is a Federal budgetary shortfall to administer the IFM programs, there would be no IFM in the herring fishery. Ms. Nordeen also clarified that this determination would be made on an annual basis, based on discussions between NMFS and the Council. Dr. McKenzie asked who would make the determination regarding assessment of resources for IFM programs, and whether that decision would be made before public input. Ms. Nordeen clarified that NMFS and the Council would assess what resources are available, and how to move forward. Mr. Pappalardo asked for clarification on methods used by observers to verify slippage events, and whether the list of roles and responsibilities can be modified through a frameworkable action in future. Ms. Nordeen stated that, the measures can be altered through a framework. Mr. Pappalardo expressed doubts in the capability of EM to detect slippage events and determine content or amount of discarded fish when there is a slippage event. Ms. Nordeen indicated that EM can likely detect slippage events, but quantifying discarded fish when slippage occurs may be difficult. She reminded the Committee that the reason for slippage determines the consequence measure applied to the slippage event. Currently, observers monitoring herring fishing can determine the cause of slippage events using visual cues and obtaining clarifications from the vessel operator. It is not clear whether a camera can verify cause of slippage events.

Mr. Kaelin stated that the concerns regarding slippage consequence measures does not consider the utility of affidavits which provides a disincentive for the herring industry to misrepresent information on slippage events, and stated that to some extent, the industry needs to be trusted. He asked that a summary of past slippage events be available in the Draft EA. Dr. McKenzie asked whether NMFS considered requiring a move-along for any slippage event, which could address some of the concerns regarding EM's capability to detect cause of slippage. Ms. Nordeen stated that the PDT discussed this option, which is discussed in the PDT memo. Ms. Tooley stated that the purpose of the slippage consequence measures is to ensure that fish is made available for sampling by the observer, and does not support penalizing the fleet for slipping for reasons beyond their control (e.g. safety).

Public comment

Ms. Erica Fuller (Herring Alliance) – Is the release catch affidavit is required on all trips, or only when there is an observer onboard. Ms. Nordeen stated that all slippage measures apply when an observer is onboard, and affirmed that the Council recommended that these slippage measures be extended to the full range of monitoring alternatives proposed in the IFM Amendment.

Mr. Chris Weiner (tuna fisherman, ME) - The focus should be about getting cameras on the boat, and suggested a 15-mile move along for any slippage event.

Mr. Patrick Paquette (recreational fishing advocate, MA) – I'm confused about the pilot program and the implementation of the action. In the past, it was stated that there would not be a lot of refinements to the EM system after the pilot project. Now, it has been indicated that there could be refinements to the EM system based on the pilot project. Will the Council and NMFS be analyzing the program during the pilot project? Are we going to try bottom sensors? I know the public wants to hear. Mr. Christopher stated that the EM project would address how the EM system's (i.e., sensors for net deployment and net retriever) work best in the fishery as it currently operates. It is not designed to address all the questions for herring coverage target alternatives.

Committee discussion - biological impacts

In response to Mr. Pappalardo's question, Ms. Nordeen clarified the summary of biological impacts apply to the biological resource in general, and is based on three categories: the herring resource, non-target species, and protected species.

Mr. Kaelin asked whether the use of the existing portside sampling data would decrease the CV. Ms. Nordeen stated that the CV simulations for Alternatives 2.1 and 2.2, which are based on NEFOP coverage at 25, 50, 75, and 100%, but the use of portside data would likely lower the CV.

Dr. Pierce stated that, based on the results of the CV simulation, with a coverage rate of 25% for river herring/shad catch cap on midwater trawl vessels fishing on Cape Cod would have a CV of 60%. Therefore, there would be no confidence in the data relative to this catch cap. Ms. Nordeen affirmed, and indicated that this analysis is the best information we have, but the dataset is relatively small, because the catch caps have been just recently implemented; a 50% coverage rate for those categories would generate a lower CV. Dr. Pierce stated that a CV of 61.4% for the haddock catch cap for midwater trawl vessels fishing on GB in 2015 would not give us confidence in the estimate; therefore, low levels of coverage are not sufficient.

Ms. Tooley asked whether trip selection is driving these CVs, because the CV for GB haddock was not acceptable last year, and asked whether trip selection may help improve the CV (e.g., number of trips selected for coverage in each area).

Mr. Grout asked why the CV is not 0% under 100% monitoring coverage for the small-mesh bottom trawl fleet's Southern New England river herring/shad catch cap. Mr. Brant McAfee stated that the simulation is based on a ramping of coverage for Category A and B vessels for Alternative 2.1 and 2.2, and does not account for other vessels in the strata that are not captured under those alternatives.

Mr. Kaelin expressed interest in the use of state portside data to generate CVs for Alternative 2.3. Ms. Nordeen stated that there is no existing federal portside sampling data, but will look into

the feasibility of the request using the state portside sampling data. Ms. Jacob asked whether the opportunistic sampling nature of the state portside sampling data would create issues with this request. A Council motion to incorporate portside data, and this action, would create a random sampling program. The state program is opportunistic. Mr. Brant stated that it is difficult to know right now without looking at the distribution of the portside sampling data, but will look into the request.

Public comment

In response to a question from Mr. Greg Wells (PEW Charitable Trust), Ms. Nordeen confirmed that the sea-day schedule has not been finalized. In response to a question by Mr. Chris Weiner, Ms. Nordeen stated that based on the information analyzed, there is no statistical difference between NEFOP datasets and state portside sampling datasets, which is why portside data is used in part to set catch caps.

Update on electronic monitoring pilot program.

Mr. Christopher provided an update on the electronic monitoring pilot project. NMFS received \$406,000 for the EM pilot project, and \$30,000 to support efforts to integrate state portside sampling data for catch cap monitoring. Owners would be responsible for the power upgrade needs for EM, which may be costly. Cameras would remain on for 100% of the time that the vessel is away from the dock for 12 months of operations after an initial 2 months for installation of EM system. The 12 potential vessels may retain the leased cameras after the project is complete and after implementation of action, but this language would not be written into the service provider's contract. NMFS would own all data collected.

Committee discussion

Mr. Kendall asked whether the agency would be able to provide an update on the EM pilot project at the August Herring Committee meeting. Mr. Christopher agreed, and stated that the project should be underway at that point.

Dr. Pierce asked whether the Council would be able to see the data results, citing statements regarding confidentiality in the EM update document. Mr. Christopher stated that compiled data and final report information would be provided to the Council.

Dr. McKenzie asked whether it would be possible to include an explanation on what factors are taken into consideration when concluding about impacts to the resource under the alternatives, citing the conclusion that more information is a *low positive* impact. Ms. Nordeen stated that there are several factors to consider: how coverage is allocated, what data are collected, and the target coverage level. Ms. Nordeen agreed that some of this clarifying language could be provided.

Mr. Balzano raised concerns regarding the EM lease cost of \$200,000 to lease for 2 years, while the estimated start-up cost was \$15,000 including installation and equipment costs. Mr. Balzano stated that it would have been more cost-efficient to purchase the equipment instead.

Mr. Christopher indicated that the analysis from the pilot project data will compare observer data and data from the EM system, for those trips that are covered by both observer coverage and EM. Mr. Pappalardo asked whether the data analysis agreement between the provider and NMFS

would be provided to the Council, and Mr. Christopher indicated that he would hope the details could be provided, but it is not clear whether this information can be shared.

Dr. McKenzie raised concern with selecting preferred alternatives, and stated that the Committee needs some initial understanding of the EM system to determine if it is feasible to get cameras monitoring on the boats and whether the EM system is cost-prohibitive or operationally prohibitive.

Committee discussion

1. Motion (Kaelin/Tooley): To recommend that the Council amend Herring Alternative 2.3 to add the use of electronic monitoring and portside sampling coverage on purse seine vessels in addition to midwater trawls.

Rationale: it is unfair to add monitoring costs to only one sector of the fleet (midwater trawl vessels). The purse seine effort is a significant portion of the fishery and purse seine vessels will be included in the pilot project according to NMFS contract solicitation.

Public comment

Mr. Weiner (ABTA, CHOIR) – This concept was considered previously and not developed, and disagrees with the principle that different aspects of the fleet can't be managed differently. Mr. Weiner suggested a separate alternative to address EM on purse seine vessels, and avoid potentially delaying this action.

Committee discussion

Ms. Tooley suggested that the flexibility be made so that purse seine vessels can choose between the coverage types.

Motion #1 **failed** on a show of hands (1/7/1).

2. Motion (Pierce/Kaelin): To recommend that the Council add an alternative to Section 2.0: "Would apply a combination of monitoring coverage based on permit category or gear type:

- "Would apply ASM coverage on Category A and B vessels using midwater trawl, purse seine and small mesh bottom trawl gear. Choose an ASM coverage target of 25%, 50%, 75%, or 100%."
- "After the goals of the sea herring/mackerel electronic monitoring pilot program are reached, midwater trawl and purse seines can choose to continue with ASM or use EM/portside sampling. The EM would be at a rate of 50% or 100%."

Rationale: this option would be a modification of Alternative 2.3, and provide flexibility for vessel owners to choose between at-sea monitoring and electronic monitoring/portside sampling, and allows the fleet to operate in a more cost-efficient manner.

Mr. Grout asked whether excluding portside sampling from the motion in the second bullet was purposeful. Dr. Pierce confirmed that it was, noting his concerns about the expense of such an option; his preference is to continue to use the RSA funds to support portside sampling costs. Ms. Tooley offered a clarification that portside sampling in combination with ASM would be the most expensive option, and supported either gear type using ASM or EM/PS for monitoring. Motion was perfected to reflect clarification on the intent of the motion. Clarification was also

made that this alternative would be in addition to the alternatives already described in the document.

2a. Perfected Motion (Pierce/Kaelin): To recommend that the Council add an alternative to Section 2.0: “Would apply a combination of monitoring coverage based on permit category or gear type:

- “Would apply ASM coverage on Category A and B vessels using midwater trawl, purse seine and small mesh bottom trawl gear. Choose an ASM coverage target of 25%, 50%, 75%, or 100%.”
- “After the goals of the sea herring/mackerel electronic monitoring pilot program are reached, midwater trawl and purse seines can choose to continue with ASM or use EM/portside sampling. The EM/portside sampling would be at a rate of 50% or 100%.”

Public comment

Erica Fuller (Herring Alliance) stated that the goals of the pilot project are not very broad, were developed without Council input, and do not mention slippage. Ms. Fuller understands the intent is to collect a lot of data, but it doesn't seem like the ability to document slippage will be documented. With this motion, there should also be Council goals for the project.

Committee discussion

Motion #2 **carried** on a show of hands (8/0/1).

Ms. Nordeen asked what “after the goals of the project were met” meant. Dr. Pierce clarified that once these EM project goals are reached (and NMFS seems confident that they will), and the contractor provides the deliverables, then the Council would be able to determine whether EM is ready for use as a monitoring. Chairman Kendall asked for a motion to approve the document, with consideration for the best timing of public hearings.

3. Motion (Kaelin/Grout): To recommend that the Council approve the IFM Draft Environmental Assessment as amended (including updated impacts analysis) for public hearings.

Rationale: the analysis in response to Motion #2 should be incorporated in the Draft EA before the document is made available for public comment. The Committee is concerned with the potential dates for public hearings in the summer during the height of fishing season, which may impact attendance/feedback on proposed IFM measures.

Motion #3 **carried** on a show of hands (9/0/0).

ATLANTIC HERRING - GEORGES BANK HADDOCK ACTION

Herring PDT update

Ms. Boelke presented the draft action plan, draft discussion document, and related recommendations of the Herring and Groundfish Plan Development Teams (PDT) as well as the Advisory Panel for a framework adjustment to consider revising the Georges Bank Haddock catch cap for the Atlantic herring fishery and associated accountability measures. She reviewed the draft alternatives related to the GB haddock cap, the associated accountability measures, and how the AMs would be implemented.

Committee discussion

Dr. Pierce asked about the squid, whiting and “unknown” fisheries that have their haddock bycatch accounted for under the Other Sub-components sub-ACL. What is the “unknown” fishery? The total catch for these three fisheries in 2014 was 641 mt in 2014 versus 113 mt for herring midwater trawls. It bothered him that those fisheries are not treated similarly. He asked where the squid fishing was catching haddock, on Cultivator Shoals? Ms. Boelke will seek more information on the spatial nature of the whiting bycatch and explained that the Groundfish PDT annually examines the fisheries within the Other Sub-Components sub-ACL and if there are any concerns, they get raised to the Committee, and maybe a sub-ACL would be considered. Including the midwater trawl catch, all are a small fraction of the total. Also, “unknown” is really a misnomer.

Mr. Kaelin noted that in 2014, the other sub-component had 4% of the ACL, but that lowered through Framework 55 changed that down to 1%. It makes sense to not put the herring within the other sub-components. Ms. Boelke noted that the percentage is a moving target and the PDT would need to reassess. It might increase if it includes midwater trawl catch. The AP did not favor a moving target.

Public comment

C. Weiner – On the fisheries within the other subcomponents, do they have caps? [Ms. Boelke clarified that no, they do not have a direct allocation.] The herring fishery has a cap, so they are trying hard to not catch haddock. Fisheries without a cap are not trying to avoid the bycatch. What is the variable cap alternative? [Ms. Boelke clarified that the percent of the cap would change. Clear triggers would need to be developed.]

Committee discussion

Chairman Kendall asked the Committee to whittle down the potential measures that could be developed in this action. Mr. Grout asked a question on Alternative 2.2.3, when the AM would not trigger unless the CV >30. At the end of the fishing year, if there was an overage, but the CV was >30, there would not be a CV, correct? Ms. Boelke indicated that, as drafted, if there was an overage midyear, and in-season AM would not trigger if CV >30, though there would still be the pound-for-pound reduction the following year. She encouraged the Committee to clarify.

Ms. Boelke asked if the Committee was comfortable with the Action Plan and Purpose and Need as drafted. Ms. Tooley commented on the Purpose and Need, that it is focused on being able to harvest the sub-ACLs in Areas 1B and 3, that is the focus, but would it better for the language to be more general? Ms. Boelke noted that the language is consistent with the Council motion and

clarifies that the action is focused on GB haddock. Ms. Tooley was fine with the language as drafted. Mr. Kaelin was concerned that the haddock cap has reduced the opportunity to harvest mackerel in the winter (could not fish on GB for seven months and could not participate in mackerel research), and felt that the Purpose and Need statement should reflect that. Mr. Pappalardo asked if there would be analysis of the impacts to the mackerel FMP and fishery. Ms. Boelke indicated that it would with or without this addition, but would probably include more with the addition. Mr. Kaelin indicated that the 2,000/day restriction is the bottleneck. Ms. Tooley clarified that the cap applies to midwater trawls, not just herring midwater trawls, so the revision is appropriate. Dr. McKenzie was concerned about language “given the current large biomass of GB haddock” given the degree of uncertainty in the assessments. Ms. Tooley noted the retrospective patterns for both herring and GB haddock. Mr. McDonald asked how this Purpose and Need statement compares to what was implemented in the groundfish plan. Ms. Boelke clarified that some statements were taken from the April 2016 Council motion, but the language about the large GB haddock biomass was from Framework 46. Mr. Pappalardo did not think the purpose of the action related to GB haddock being underutilized, but to remove barriers to the herring fishery from optimizing its opportunities. Ms. Tooley does not object to taking the sentence out; that the objective is more about minimizing bycatch versus the biomass or use of GB haddock.

Consensus Statement #1: To recommend that the Council approve the Draft Action Plan and Purpose and Need statement for the Georges Bank Haddock – Atlantic Herring framework as drafted (p.8):

- Acknowledging that the current accountability measures negatively impact the mackerel fishery as well,
- Removing the second sentence of the first paragraph in the draft Purpose and Need section (do not relate the purpose to the currently large GB haddock biomass).

Note: That second sentence also spoke to the low utilization of GB haddock by the groundfish fishery.

Public comment

C. Weiner – This issue is tied to the inshore issue. I speak for the majority. I get the problem, but there’s a problem inshore. There should be inshore buffers and they should be linked with these measures. They should move forward together.

Mr. Paquette – My community of charter and private fishermen would like to get more haddock. If this is about allocating haddock, the Council should not pick and choose. We could use more haddock. The recreational community has long-held that it is not good to turn a valuable food fish into lobster bait. We are willing to compromise here and reduce some of opposition. This should not become a haddock fishery.

Committee discussion

The Committee worked through the alternatives by section. Mr. Grout indicated that his options to remove mean that he would like other options to remain.

4. Motion (Grout/McKenzie): To recommend that the Council not develop Alternatives 2.1.4 (increase GB haddock catch cap with potential mid-year transfer of unused quota to

the groundfish fishery) or Alternative 2.1.5 (terminate the sub-ACL allocation for the herring fishery and account for haddock catch within the “other subcomponents” sub-ACL) in the Draft Discussion Document.

Rationale: regarding Alternative 2.1.4, allocations should not be moved between fisheries, and a similar result could occur with other approaches. Alternative 2.1.5 provides no incentive to avoid GB haddock catch, because there would be no cap or associated AM.

Ms. Tooley favors 2.1.4 over 2.1.3; she does not see the harm with transferring haddock back to the groundfish fishery. In reality, it is unnecessary, but it would be good to have more roll-over options and consistency between FMPs. Mr. Kaelin noted that yellowtail flounder quota is transferred between the groundfish and scallop fisheries, and Alternative 2.1.4 would be consistent. Mr. Alexander saw the value of retaining 2.1.4. Mr. Pappalardo asked how the conversion of quota would occur under 2.1.4. Ms. Boelke clarified that the Groundfish PDT would develop an approach in the discussion of impacts.

4a. Motion to amend (Tooley/Kaelin): To recommend that the Council not develop Alternative 2.1.5 (terminate the sub-ACL allocation for the herring fishery) in the Draft Discussion Document.

Rationale: the Committee was somewhat split on whether to develop Alternative 2.1.4 in this action, but there was no support for Alternative 2.1.5, so the motion was amended to take one idea at a time.

Dr. McKenzie supported the underlying motion, because developing 2.1.4 would be complicated.

Motion #4a to amend **carried** on a show of hands (6/1/2).

Main motion as amended **carried** on a show of hands (9/0/0).

5. Motion (Grout/Tooley): To recommend that the Council not develop Alternative 2.1.3 (modify the cap to a variable percentage) in the Draft Discussion Document.

Rationale: the range of alternatives should be simplified. The GB haddock catch cap percentage should not vary with groundfish fishery utilization or haddock abundance.

Public comment

Mr. Weiner – What happens if the groundfish fishery uses all of its haddock? Could another framework happen? The goal is to catch all the haddock. If you catch 100% of the haddock, would there be no herring cap? [Ms. Boelke explained that this alternative would need to be developed in terms of the conditions when the cap would change.] This seems like the most flexible alternative.

Committee discussion

Dr. O’Keefe noted the AP recommendation to include in Alternative 2.1.3 a minimum or baseline of haddock catch, for example 1% as a minimum allocation. Ms. Tooley potentially supported the idea, but felt that the action should be simplified.

Public comment

Mr. O’Neill – There’s no one who wants a quick action more than I do, but the proper amount of thought should be put into it, so we aren’t revisiting it in a few years. There are unintended

consequences in everything. I supported the 1% baseline at the AP meeting; you need something to be able to continue fishing. I like the idea of a cap tied to the biomass.

Committee discussion

Mr. Balzano indicated that the current cap is tied to the biomass, and only 100% of the haddock are allocated.

Motion #5 motion **failed** on a show of hands (4/4/1).

Ms. Tooley asked about modifying the AM area in Alternative 2.2.2 based on various approaches and felt that basing it on catch rates in the herring fishery would be best. Ms. Boelke clarified that winnowing approaches would streamline the action and asked for rationale.

6. Motion (Tooley/Grout): For Alternative 2.2.2 (modify the AM area), the Committee recommends prioritizing developing options for the AM area based on areas with higher GB haddock catch rates in the herring fishery.

Rationale: the AM area closures should be focused on where bycatch in the herring fishery has occurred rather than where the commercial groundfish fishery has caught GB haddock. Focusing on the highest bycatch rate areas only could provide more flexibility to the herring fishery to operate in other areas with lower haddock catch rates. It is expected that the AM areas would be smaller under this approach relative to No Action.

Mr. Pappalardo asked what years of herring catch it would be based on. Ms. Tooley clarified that the years under No Action is dated and should be updated; she expects the PDT to provide a range of years for consideration. Mr. Kaelin agreed with the direction of this approach, and asked if Motion #6 could be combined with considering seasons (Alternative 2.2.3). Ms. Boelke indicated that the data would be evaluated spatially by season. Mr. McDonald asked if the focus is on bycatch and incidental catch rates. Ms. Boelke confirmed.

Public comment

Ms. Fuller – A question for General Counsel. Would the law allow a sub-ACL to be reached and then have an AM trigger later in the season (allowing fishing in the interim)? If they reach the sub-ACL, didn't stop fishing and exceeded it more, what would happen? [Mr. McDonald clarified that this alternative is a reactive AM designed to address the issue causing the overage. Typically, there is a payback if a sub-ACL is exceeded.]

Committee discussion

Motion #6 **carried** on a show of hands (7/0/2).

7. Motion (Kaelin/Grout): In Alternative 2.2.3 (establish an AM season), do not develop the option of establishing an AM season in a subsequent year.

Rationale: the Committee agreed with the AP recommendation that AMs should be in-season. Therefore, the option in this alternative that would develop a seasonal closure in a subsequent year should not be considered.

Dr. O'Keefe asked how the PDT would develop a season, and what would happen if the season has already passed when an in-season closure would occur. Ms. Boelke indicated that this approach would be more complicated than No Action or a closure in a subsequent year. Mr.

Grout saw the utility of combining this with 2.3.4; if you catch the allocation within the season, you would stop fishing and restart at a later date when there is lower bycatch.

Motion #8 **carried** on a show of hands (7/0/2).

8. Motion (Grout/McKenzie): To recommend that the Council not develop Alternative 2.2.4 (modify the payback provision) in the Draft Discussion Document.

Rationale: of the three ideas considered in Section 2.2, this would be the most complicated to develop. Considering the desire to streamline this action, this concept should not be developed at this time. The Committee prioritizes modifying the current AM area or season, over modifying the pound for pound payback part of the current AM.

Ms. Tooley suggested this alternative should be combined with others. With the low observer coverage, the catch estimates vary with every observed trip. Had the fishery been able to keep fishing, the catch estimate would have been different. Mr. Kaelin agreed; a cap of 1% of the haddock biomass is negligible; the biological impact should dictate the response. Mr. Balzano asked for clarification. Ms. Tooley indicated that the closure has the most immediate impact; in the event that the groundfish fishery is not catching their quota, the impacts of not having a payback would be negligible. Dr. O'Keefe asked, with a 150% trigger, if the pound-for-pound payback would be any catch exceeding 100% or 150%. Ms. Boelke indicated 100%. After Committee discussion of the alternative and rationale, Dr. McKenzie supported removing it for simplicity's sake. Mr. Kaelin is not in favor of not having a payback until the total ACL is reached (there would be no incentive to avoid haddock), but having a range to consider.

Motion #8 **carried** on a show of hands (7/2/0).

9. Motion (Grout/Tooley): To recommend that the Council not develop Alternative 2.3.2 (AMs trigger in a subsequent year) and Alternative 2.3.6 (transfer of haddock to the herring fishery mid-season) in the Draft Discussion Document.

Rationale: Staff has identified challenges with Alternative 2.3.6 (allocating haddock quota to the groundfish fishery, and potentially taking that back mid-season. For Alternative 2.3.3, the Committee agrees with the AP that there should not be subsequent year area closure AMs.

Motion #9 **carried** on a show of hands (5/0/3).

Ms. Tooley indicated that the concept of the AM not triggering unless the $CV \leq 30$ (Alternative 2.3.3) might have addressed the issues this past year, but she was concerned about what would happen if the end of year estimate had a CV over 30. Would there be AMs in that case? The payback could potentially be substantial. Ms. Boelke encouraged the Committee should clarify. Mr. Pappalardo was concerned about building a system dependent on monitoring coverage.

10. Motion (Balzano/McKenzie): To recommend that the Council not develop Alternative 2.3.3 (AMs trigger when catch estimate has a CV of 30 or less) in the Draft Discussion Document.

Rationale: The concept is too complicated to develop in this framework, and there were concerns about the payback unknowns.

Motion #10 **carried** on a show of hands (8/0/0).

Ms. Boelke asked if the Committee agreed with the AP comment on Alternative 2.3.4 – that this option can only be picked if there is a cap increase. Ms. Tooley asked if a seasonal split could be

developed within specifications. Ms. Boelke indicated that, since this is a groundfish allocation, it may not be that simple to adopt. Mr. Grout wants the Alternative included for analysis, potentially with an option to adjust the split in specifications. Mr. Balzano thought a seasonal split would be helpful. Ms. Tooley clarified that the split under a low cap would not be good.

Public comment

Mr. O'Neill – When I made the AP motion in March, I supported a 2% increase with an 80/20 seasonal split. A seasonal split would not work with the current percentage. The split can serve two purposes. If through data collection, you don't have enough information, there's a 20% buffer if we have overshoot. [Mr. Balzano asked if the split would have worked this year.] Yes, but the biomass is bigger, so we are likely to catch more haddock. I have no more confidence in the numbers. [Mr. Pappalardo said that when the closure happened this past year, low coverage levels and a few bad trips caused the problem; he asked how the Council will arrive at an appropriate level of haddock; one of the biggest drivers is coverage levels. He felt that having flexibility will be important; it depends on how the elements fit together.] If you look at the fishery, the haddock estimate increases over the course of the season, but then the estimate goes down. It's difficult to plan. If we stopped voluntarily at 80%, we don't know we are at 80% until it's too late.

Committee Discussion

Mr. Grout indicated that a benefit of setting the seasonal split at specifications is the ability to be flexible, based on the absolute amount of the haddock sub-ACL. Ms. Tooley indicated that the small mesh bottom trawl fishery was watching their river herring numbers last year and decided to stop fishing, but it might have been better to continue, so that they get more low observed catches from those participating in the bycatch avoidance program.

Consensus Statement #2: For Alternative 2.3.4 (seasonal split of sub-ACL 80/20), revise to allow a seasonal split to be set through the specifications process.

11. Motion (Kaelin/Grout): To recommend that the Council not develop alternatives for Section 2.4 (Proactive AMs) in the Draft Discussion Document.

Rationale: there is not a need to develop proactive AMs, given the current voluntary avoidance program and other measures under No Action. There are enough alternatives in the framework to make progress this year.

Public comment

Ms. Fuller – I urge you to leave it in the document. Amendment 1 (p. 371-3) said that the bycatch avoidance program was going to be fully operational by 2005. The fleet already participates in a river herring avoidance program. I don't know how difficult it would be to expand the program to avoid haddock.

Mr. O'Neill – We are not opposed to being proactive. We are getting information about haddock from the avoidance program. It's premature to go down a regulatory path for the program.

Committee discussion

Ms. Tooley recalled that river herring rose as a more important issue than haddock, so an avoidance program got prioritized for that instead. She suggested more description about what is

being done proactively. A proactive area closure does not work for herring. Mr. Grout would like an analysis of a proactive seasonal closure to see where the bycatch is occurring and if there is seasonality to it. If there is repeatedly high bycatch in certain times and areas, there could be closures in season. He suggested voting down the motion and including 2.4.3. Mr. Pappalardo agreed.

Public comment

Mr. O'Neill - Given regulatory changes since 2009, there have been significant shifts in where herring are being caught, because we don't have access. I don't have a problem with leaving this section in.

Brad Schondelmeier (MADMF) – From running the river herring/shad bycatch avoidance program, we put a lot of time in to identify areas where sea herring and river herring separate. With haddock, the separation may be more vertically in the water column. Boats fishing next to each other can have very different haddock catch. Maybe something can be done to have more vessel-level accountability.

Committee discussion

Motion #11 **failed** on a show of hands (1/6/1).

Mr. Grout wants to hear industry's thought on a required avoidance program. Dr. Feeney reminded that there are legal challenges to NMFS requiring participation in a state program.

AMENDMENT 8 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Dr. Feeney reviewed the outcomes of the recent Management Strategy Evaluation (MSE) public workshop that developed recommendations for: management objectives that could be met with an Acceptable Biological Catch for Atlantic herring, features of potential control rules, and how control rules could be tested to determine potential outcomes relative to the objectives. The recommendations focused on the technical simulations that are expected to occur this summer with the current data and modeling capabilities. Many workshop participants were interested in considering spatial scales smaller than the Atlantic herring stock area (Maine to North Carolina), and it was noted that the Council could develop an action in the future for a sub-ACL control rule, that the models are not yet developed to consider spatial scales smaller than the stock area, and that the Council is currently addressing localized depletion concerns through other aspects of Amendment 8. The Herring Plan Development team has not recommended specific changes to the MSE recommendations, but cautioned that it may not be possible to directly include some of the performance metrics, but proxies that address the intent would be used.

Committee discussion

Chairman Kendall asked for Committee comments on the MSE. It was noted that technical work will occur after the Council meeting, so now is the time to provide input. Ms. Tooley asked whether the degree to which natural mortality is included in a control rule should depend on the degree to which it is accounted for in the assessment, and whether there is a way to simulate that. Dr. Deroba clarified that natural mortality is included in the assessment and the simulation. For the simulation, the amount of herring consumed each year can be calculated and compare that to the yield produced by each control rule and metrics such as B_0 . Mr. Kaelin asked whether the

status quo approach would be included in the simulations, which is sensitive to biomass (not reducing F until SSB is $\frac{1}{2} B_{MSY}$). Dr. Deroba indicated that a close proxy would. Under status quo, a rebuilding plan is required below $\frac{1}{2} B_{MSY}$ - an F that would rebuild the stock within 10 years. Determining this F requires projections, which is really difficult to build into simulations and probably will not happen during this current MSE. Ms. Tooley recalled the workshop input that small herring is required for tuna and bird predation; she asked if tern productivity is really more relevant than the amount of herring < 10 cm. Dr. Deroba clarified that the amount of age 1 fish can be simulated as well as the reproductive capacity of generic birds; the ability to define how a predator responds (reproductive success, growth, migration) to herring abundance is a large uncertainty. The NEFSC is currently developing how to simulate predator responses and test scenarios where predators are insensitive as well as highly sensitive to herring abundance and determine if there are control rules that are robust under either scenario. Ms. Tooley asked how predator condition would be factored in, noting the AP discussion about how tuna condition declined as herring abundance increased. Dr. Deroba clarified that the simulation does not create new data, but it can test predator condition that is highly sensitive or insensitive to herring abundance and see if there is a control rule that will give reasonable performance regardless of the control rule.

Public comment

Mr. Weiner – See letter from Rich Ruias; he suggested a performance metric of tuna CPUE. There has been a noticeable shift towards Canada. Their CPUE increased, and ours went way down. For the years that Walt Golet wrote his paper on, I remember that the majority of bluefin were coming and leaving; the healthy big schools would move on and we were only catching the thin ones. Usually, the tuna show up skinny and we watch them get fat over the season. They look like beach balls by the end. Right now, they are off of Chatham on the sand eels. Our fishery makes money as they get fatter. [Dr. Deroba replied that in the next six months, there will not be a simulation output that reflects tuna CPUE, because that would require developing a model of tuna movement and the tuna fishing fleet, but it is a good suggestion; there could be a more study of herring availability and tuna presence and condition].

The Committee did not have any further questions or comments on the workshop outcomes.

OTHER BUSINESS

Mapping herring fishery and management measures

Dr. Feeney briefly updated the Committee on one of the localized depletion-related tasks from the March 30 Committee meeting: Creating maps of herring fishing locations and spatial management boundaries. GARFO is developing an interactive webpage for this purpose similar to the existing webpage for scallops. A web link will be sent to the Committee when available, but prior to their August meeting.

NOAA Office of Law Enforcement priorities

Mr. Lou Goodreau gave an overview of the NOAA Office of Law Enforcement Northeast Division's Priorities, part of the national priorities set in 2012, which will be updated in 2017. As a precursor, the Office has asked that the Council's Committees give any input on potential revisions to the priorities. A Council letter or a formal recommendation is not necessary at this time. Input will be considered at the June 15 Enforcement Committee meeting.

Committee discussion

Chairman Kendall asked the Committee for input. Mr. Kaelin was not aware of specific enforcement concerns for the herring fishery; there were a few problems with not reporting, and perhaps stronger permit sanctions could be developed. He suggested that fostering relationships and communication should be highest. He noted that when VTR data does not match dealer data, the fishermen have been told regularly (e.g., 6 times in the last 3-4 months) by GARFO staff to revise their VTRs. However, that does not make sense, because it is a hail and NMFS uses the dealer reports for quota monitoring. Mr. Goodreau asked for clarification, that VTRs are estimates by the captain, and it wouldn't match the dealer report, because there would be some discards or spoilage, and vessels can sell to different dealers. Mr. Kaelin clarified that it would be difficult to make the VTR match the final dealer tally.

Public comment

Mr. O'Neill – I've had calls to change our VTRs. It doesn't seem appropriate to go back and change the VTR.

Committee discussion

This sounded odd to Mr. Christopher, indicating that it is probably not an enforcement issue and that he would look into it. Mr. Kaelin clarified that it was the GARFO data group rather than enforcement making the calls.

Public comment

Terry Alexander (commercial fisherman, ME) – I get calls from the data collection office in New York, and that the VTR numbers are a guess

Committee discussion

Ms. Tooley recalled a mismatch a few years ago, because there was a herring s dealer who was not reporting anything; it is good that GARFO looks for discrepancies. Mr. Grout asked if these priorities would be brought to the ASMFC; that some of the currently "medium" priorities would move become "high" for some of the fisheries ASMFC manages (e.g., lobster). Mr. Goodreau clarified that OLE is just planning to get NEFMC meetings, but OLE might find it useful to go to ASMFC and MAFMC. Ms. Boelke asked the Committee if there are one or two key measures in the herring that are most important to enforce. Ms. Tooley suggested that education and assistance with compliance is important, recalling a recent situation in the herring fishery where none of the participants understood a particular measure; OLE outreach would be helpful when the Council implements measures for situations that do not come up often (regulating rare occurrences). Would help to have more education.

The meeting adjourned at 4:50 PM.

Appendix I – Summary of Herring AP and Committee input on Range of Alternatives for GB Haddock/Herring Action

2.1 GB Haddock catch cap			Herring AP input	Herring Committee input
2.1.1	No Action	1% of US ABC		
2.1.2	Modify the cap	Likely an increase – GF PDT plans to look at 2-5%		
2.1.3	Modify the cap – with variable percentage	Higher in years when haddock biomass is high and lower when gf fishery utilizing more of their sub-ACL	Recommend including a minimum cap of 1%	
2.1.4	Increase cap with potential transfer to GF fishery mid-year	Initial allocation would be higher to herring fishery – but some may be transferred back to gf during the year - Used in Scallop FMP for YT flounder		
2.1.5	Terminate sub-ACL	No sub-ACL - all herring catch under other sub-component (now at 1%)		Motion 4a: Recommend Alt 2.1.5 not be developed in this action.
2.1.6	Others?		None	None
2.2 GB Haddock AMs for the herring fishery			Herring AP input	Herring Committee input
2.2.1	No Action	In-season closure of an area on GB to directed MWT fishing with payback provision		

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2.2.2	Modify the AM area	Based on GF commercial fishing area, haddock abundance, or areas with higher catch rates from observer data, other ideas?		Motion 6: Recommend prioritizing developing options for the AM area based on areas with higher GB haddock catch rates for the herring fishery.
2.2.3	Establish an AM season	In-season or subsequent year – season with higher bycatch rate	AP does not support subsequent year AM	Motion 7: Recommend Alt. 2.2.3 not include a subsequent year option.
2.2.4	Modify the payback provision	Pound for pound payback only if certain conditions exist		Motion 8: Recommend Alt. 2.2.4 not be developed in this action.
2.2.5	Others?		None	None
2.3 Implementation of GB Haddock AMs			Herring AP input	Herring Committee input
2.3.1	No Action	In season when catch estimate above sub-ACL		
2.3.2	AMs trigger subsequent year	AM does not trigger until complete year of data available and final estimate for the year is available.	AP does not support development of subsequent year AM	Motion 9: Recommend Alt. 2.3.2 not be developed in this action.
2.3.3	AMs trigger when catch estimate has cv of 30%	AM does not trigger unless catch estimate has minimum of 30% cv.	AP recommends this alternative be modified to be in-season only, not subsequent year AM	Motion 10: Recommend Alt. 2.3.3 not be developed in this action.

Appendix I – Summary of Herring AP and Committee input on Range of Alternatives for GB Haddock/Herring Action

2.3.4	Seasonal split of sub-ACL (80% / 20%)	80% of sub-ACL allocated on May 1 and the remaining 20% is not available until November 1. If fishery exceeds 80% of sub-ACL before Nov 1 AM in place until Nov 1, and potentially again if remainder of sub-ACL harvested later in the year.	AP recommends that this alternative should only be coupled with an increase in the catch cap – not stand alone	Consensus #2 , recommend that specifying a seasonal split of a sub-ACL be added to the list of items that can be adjusted by the specifications process.
2.3.5	Change AM trigger	AM only triggers if certain conditions exist		
2.3.6	Transfer of haddock to herring fishery mid-season	Mid-season take haddock from GF and allocate to herring fishery	<i>Staff has identified issues with this alternative and developed 2.1.4 instead</i>	Motion 9: Recommend Alt. 2.3.6 not be developed in this action.
2.3.7	Amend how haddock catch is estimated using portside data			
2.4 Proactive AMs			Herring AP input	Herring Committee input
2.4.1	No Action	List of items in place already that help reduce bycatch and keep the fleet under the sub-ACL: voluntary bycatch avoidance, possession limit of GF, prohibition on haddock discards and sale	AP does not support development in this action	
2.4.2	Required bycatch avoidance program	Could participation be required		
2.4.3	Seasonal closed area	Discrete closed area that would close during season with high bycatch rate.		