

# *Atlantic States Marine Fisheries Commission*

## Joint Atlantic Herring Section/NEFMC Herring Oversight Committee /Advisory Panel Meeting

February 13, 2001

Sheraton Ferncroft, Danvers, MA

### **Meeting Summary**

The ASMFC Atlantic Herring Section met on February 13, 2001 in Danvers, MA, jointly with the NEFMC's Herring Oversight Committee and the joint Herring Advisory Panel. The meeting was conducted in two phases, the first to deal primarily with Section issues and secondly to address controlled access in the herring fishery. The following summary was prepared to address the issues discussed by the Section. The controlled access summary is attached as a separate document.

The Section met to review three proposals from the state of Maine for changes to the herring management program under Amendment 1 and Addendum I. A presentation for each of the proposals was given by Kohl Kanwit, ME DMR staff.

The first proposal was for a change in the Area 1A fishing season from a calendar year to June 1-December 31. John Nelson, Section Chair, stated that no additional management activities had been planned for Atlantic herring this year when the Commission's 2001 Action Plan was developed and approved last year. Any new management measures would have to be implemented through state actions for this year. Jeff Kaelin stated that he was in favor of the proposed change because the quality of fish available later in the season was better for the canneries. He asked if it was possible to "borrow fish" from other management areas based on their availability or a shift in their distribution. Specifically, could the Gulf of Maine fish estimated to be caught in the Area 2 winter fishery be made available for Area 1 fisheries if the Area 2 fishery did not occur due to a shift in the resource distribution. Mr. Nelson replied that there could be a combination of ideas discussed with the goal of stretching out the Area 1A TAC to avoid a closure. One idea was to encourage a shift in effort out of the western Gulf of Maine during the time effort controls are imposed.

Bruce Freeman questioned how the TACs were developed, whether there were differences between the fish in Areas 1A and 1B. Mr. Kaelin replied that it was based on tagging work conducted in the 1970's. Mr. Nelson added that the boundary between Areas 1A and 1B was implemented in order to encourage a shift in effort as well. Mr. Eric Smith asked if there were enforceability concerns to be addressed if the proposed change in the season was implemented. Most vessels would presumably be equipped with VMS, could the states or NMFS monitor landings given this change would not be part of a Commission or Council FMP. Phil Haring stated that there were 118 Category 1 permits, half with VTS, and NMFS enforcement was concerned with an overburden to the system. One alternative to explore might be including a reserve of 10,000 mt for 1A if a fishery in Area 2 did not occur. Mr. David Ellenton stated that it was possible to estimate the GOM component caught in Area 2 and make an adjustment to the 1A TAC for later the same season. Additional TAC for Area 1A could be calculated by applying 20% (the proportion of the Area 2 TAC assumed in the FMP to be Area 1A fish) of the uncaught portion of the Area 2 TAC to the Area 1A TAC.

Mr. Kaelin asked whether it was possible for the states to implement an in-season adjustment to the 1A TAC based on the amount of fish caught in the Canadian weir fishery. Mr. David Goethal stated that there were 2 issues: 1) changing the season start date and 2) what to do if the fish did not show in Area 2. He favored the change in season for small boats since the traditional fall fishery did not start until July 15<sup>th</sup> of each year (limited by the whiting fishery). Mr. Vito Calomo offered one other option by suggesting a seasonal/area closure for the western GOM. The Section took no formal action on the issue at this time, instead instructing the GOM states to develop a plan of action for the GOM to be implemented by adjustments to individual state regulations.

The second proposal was to change the eastern GOM spawning closure boundary to include a small area where spawn herring were taken during last season. Dr. Desfosse stated that this could be addressed by a technical addendum to the Commission plan if the Section concurred. The consensus was to move forward as long as this was possible under the ISFMP Charter.

The final proposal was to allow the states to implement either the bycatch allowance currently included in Addendum I, or the tolerance provision that was in place under Amendment 1, depending on the enforcement capability and willingness of the state. Mr. Nelson stated that it was not possible for the Section to revert to the tolerance provision without developing another addendum and this was not part of the Commission's Action Plan for this year. Questions arose as to the intent of the Section at its last meeting when it asked Maine to report on the effectiveness of enforcing the tolerance provision. Staff was instructed to review the tape of the last meeting and determine whether the Section had intended to allow Maine to retain the tolerance provision based on the effectiveness of its regulations/enforcement.

Dr. Pierce asked if there was a decline in the juvenile population and suggested that the TC/PDT review the data prior to the next meeting.

Mr. Flagg offered the following motion: **Move to suspend Addendum I, Section 4.2.1.5, for the 2001 fishing season to allow states to implement either the tolerance or bycatch provisions and initiate development of Addendum II** (seconded by Mr. Smith). Mr Flagg stated that Maine was looking for interim relief to maintain the status quo regulations while an addendum is developed. The motion was further refined to: **Move to develop Addendum II to allow the states to implement either the tolerance or bycatch provision for the spawning restrictions.**

Dr. Pierce moved to postpone action on this issue pending review by the TC/PDT. The motion failed for lack of a second.

Following a break for lunch, advice from Commission staff, in consultation with the ISFMP Director, was that the Section could not suspend a provision of an approved addendum or FMP/amendment. Mr. Flagg withdrew his motion and offered a substitute: **Move to initiate development of Addendum II to allow states to implement either the tolerance or bycatch provisions of Addendum I, Section 4.2.1.5, with the understanding that the state of Maine would provide the support needed by Commission staff** (seconded by \_\_\_). Staff would review the impacts of this relative to the priorities listed in the 2001 Action Plan to determine whether this would be a possible action item.

Mr. Freeman offered the possibility of Maine addressing this issue through conservation equivalency.

The motion failed, 3 - 3.

## **Other Business**

The minutes of the July 12, 2000 Section meeting were approved by consensus. David Borden was elected Chair with Lew Flagg remaining as Vice-chair.

## **New England Fishery Management Council**

### **SUMMARY**

Herring Oversight Committee, ASMFC Section and  
Herring Advisory Panel Joint Meeting  
Sheraton Ferncroft, Danvers, MA  
**February 13, 2001**

The Herring Oversight Committee, ASMFC Herring Section, and Herring Advisory Panel met jointly to discuss controlled access/limited entry in the Area 1A fishery and herring research priorities. The ASMFC Herring Section also discussed and took action on matters not directly affecting the federal Herring Fishery Management Plan. The summary of the ASMFC portion of the meeting is attached as a separate document.

### **Motion**

to change the agenda and put the controlled access discussion after lunch (Section: Pierce/White; Committee: Calomo/Kendall, motion passed, Section: 3-1; Committee 3-1-2)

### **CONTROLLED ACCESS/LIMITED ENTRY**

Mary Beth Tooley and Peter Mullen presented a problem statement developed by an industry Controlled Access Working Group. While the Working Group focused on Area 1A issues, several people suggested that the discussions be expanded to include Areas 2 and 3 and that these discussions be coordinated with Mid-Atlantic mackerel fishery participants. The primary concerns of the Working Group are overcapacity in Area 1A, the preservation of traditional fisheries that have strong relationships with local communities, and the need to slow down the harvest rate so that the fishery extends for the duration of the demand season, that is into December.

Comments on this issue included:

- the Council can use the control date of September 16, 1999 to control capacity if it determines such action is necessary
- controlled access is necessary to achieve the plan objectives, including the preservation of the traditional fisheries
- the debate remains centered on the details of who would be in and who would be out of the fishery under a limited entry program
- the issue is also one of how to dampen the catch in 1A while increasing effort in other areas where the resource is underutilized
- the states should consider proposals to limit entry in state waters which will prompt the Council to take parallel action in the EEZ
- the proponents of limited entry are primarily small boat interests whose objective is to protect their traditional markets, mainly for bait. When the canneries expand, as they have indicated they will, the competition for fish between the bait markets and the food market will intensify and the

- problem of supply from Area 1A will exist regardless of whether there is a limited entry program in place
- the traditional fisheries are essentially gone already, and will not return. A limited entry program needs to be developed on a regional basis by an entity that is not going to benefit from a specific outcome.

David Borden proposed that the issue and problem statement be referred to the Herring Advisory Panel with a set of specific questions. These questions would include:

1. Is the problem statement valid?
2. Should we limit entry to address the problem? Why or why not?
3. What qualification criteria should be applied? Time-based, tonnage-based, or some combination?
4. How effective would a limited entry program be without state action? Some states would require legislation to enact a limited entry program.
5. What is the impact of a fishery directed on juvenile herring?
6. What proportion of the herring catch comes from state waters compared to federal waters?

#### **Consensus**

that the problem statement and the preceding questions be referred to the advisors. The Committee members should review and supplement the list of questions prior to being sent to the advisors. The advisors may also consider developing one or more strawman proposals, and should provide a list of pros and cons. The Mid-Atlantic Council's mackerel advisors and ASMFC herring advisors should also receive the materials and may be requested for a joint advisory panel meeting.

#### **HERRING RESEARCH PRIORITIES**

The committee reviewed the research priorities outlined in the SAFE Report. It discussed the need to identify mortality targets for different ages of herring to resolve the dispute over the impact of a juvenile herring fishery. It also discussed the lack of information about the mixing and migration of different spawning components and how our current knowledge is based on tagging studies done in the 1970's.

#### **Consensus**

to ask the Plan Development Team and/or the ASMFC Technical Committee whether a new tagging program would be beneficial to learning more about sub-stock intermixing and migration patterns and how such a program could be designed.

The Committee also wants to seek funding ideas from the industry and advisors and explore the possibility of a TAC set-aside.

#### **OTHER BUSINESS**

Some participants expressed an interest in continuing the U.S./Canada industry meetings and include attendance from the Committee Chairman and Council staff.

The Committee indicated support for a suggestion that NOAA General Counsel and the Plan Development Team each be represented at meetings where limited entry/controlled access are discussed.