

New England Fishery Management Council
Atlantic States Marine Fisheries Commission
Joint Herring Oversight Committee/Atlantic Herring Section
Meeting Summary
June 14-15,1999

A joint meeting of the Council's Herring Oversight Committee and the Commission's Atlantic Herring section was held in Peabody, MA. The Committee/Section reviewed the draft 1998 Stock Assessment and Fishery Evaluation (SAFE), agreed on recommended specifications for the 2000 fishing year, and considered changes to the management measures that would be effective in the 2000 fishing year. The meeting was chaired by Mr. Nelson of the ASMFC section. Mr. Flagg was elected vice-chair of the section by acclamation.

Council staff reported that the federal FMP was being reviewed by the National Marine Fisheries Service regional office. Neither the notice of availability nor the proposed regulations have been published in the *Federal Register*. Based on this, the earliest possible date for the regulations to be implemented is mid-October. Even though the plan is not yet approved, the Council was proceeding with its annual adjustment process as described in the FMP.

SAFE Report

Staff presented the draft SAFE report, prepared by the plan development team (PDT), to the Committee/Section. The final report will be presented to the Council in July. The Committee/Section asked the PDT to include additional information on the evaluation of Gulf of Maine herring, changes in effort in different management areas, and Canadian management actions. Public comment on the report included:

- Several commenters do not believe herring is as abundant as reported. Particularly in the Gulf of Maine, some members of the industry feel a stock decline has already begun.
- The report is deficient because it does not include information on the sardine canning industry.
- The report should include additional information on bycatch and predator/prey relationships.

Specifications

Staff summarized recommended specifications for the 2000 fishing year. The only changes from the recommended specifications for 1999 is to increase DAP to 200,000 mt, change the large domestic vessel at-sea processing specification (USAP) to 20,000 mt, and reduce the JVPT specification to 20,000 mt.

Motion: That the committee recommend to the Council the annual specifications as set forth by the PDT. (Mr. Hill/Mr. Smith)(ASMFC: Mr. Freeman/Mr. Calomo)

The specifications recommended by the PDT were:

| | |
|------|---|
| ABC | 300,000 mt |
| OY | 224,000 mt |
| DAH | 224,000 mt |
| DAP | 200,000 mt |
| USAP | 20,000 mt |
| BT | 4,000 mt |
| JVPt | 20,000 mt |
| JVP | 10,000 mt (limited to Areas 2 and 3) |
| IWP | 10,000 mt (limited to Areas 1B, 2, and 3) |

The Committee/Section discussed the recommendations, noting that the concern that USAP not be taken in Management Area 1A. Mr. Hill amended his motion by adding:

That USAP will not occur within the Gulf of Maine (Management Area 1A and 1B).

He explained that this was to prevent any large domestic vessel from taking herring over the side, or actively processing herring, while in areas that are restricted. This would limit the expansion of the large domestic vessel processing activity in the offshore areas of 2 and 3. The Committee/Section discussed possible impacts of specifying USAP at 20,000 mt. Concerns expressed included on the possibility that with an offshore market for herring, the shoreside supply for bait or the canneries would be reduced. Other opinions that supported the motion included the concept that it would create additional markets for herring that would benefit harvesting vessels.

Public comment on the issue included:

- Mr. Jeff Kaelin supported the motion. With limits on offshore processing, USAP may be another source of supply for the canneries. The Atlantic Frost could benefit from this approach. He questioned why any amount was being allocated to JVPt.
- Ms. Audrey Cardwell opposed the motion, noting that it may have adverse impacts on local communities and lobster fishermen.
- Several fishermen opposed the motion, expressing their concern the stocks were not as robust estimated by the scientists.
- Mr. Dave Ellenton noted a number of fishermen spoke at the Council meeting in favor of an offshore market. He opposed the restriction on locating the vessel in Management Area 1B. The TACs in this area will protect the resource.

Dr. Pierce asked for a clarification: could an at-sea processing vessel be in state waters yet process fish from Management Area 1B? The reply was yes, this would be allowed.

Dr. Mike Armstrong, Massachusetts Division of Marine Fisheries, elaborated on the SAFE report evaluation that the Gulf of Maine component was not in danger. He noted that scientists were not observing a gradual decrease in landings, a truncation of length frequencies, or other

signs of collapse. Little difference has been observed in age structure between Gulf of Maine and offshore fish. There is a full complement of ages on the spawning grounds. The indications are of a decline in catchability and not an abrupt decline in the stock.

The motion passed unanimously (Council 5-0; Commission: Yes: Maine/New Hampshire/Massachusetts/Connecticut/New Jersey)

The Committee/Section noted some confusion on the meaning of the motion. Some members thought the motion would allow fish to be caught in Area 1A or 1B, and transferred to a processing vessel in Area 2 or 3. In order to clarify the record, the following motion was made:

Motion: For clarification, the offshore processing allocation, as voted on in the last motion, is defined as product that is caught in, transferred in, and processed in Management Areas 2 and 3. (Council: Mr. White /Mr. Flagg)(Commission: Mr. Abbott/Mr. White)

Public comment included:

- Mr. Ellenton asked if this prevented a processing vessel from processing fish while steaming to port at the end of a trip.

The Committee/Section discussed Mr. Ellenton's comment and perfected the motion to read:

Motion: For clarification, the offshore processing allocation, as voted on in the last motion, is defined as product that is caught in and transferred in Management Areas 2 and 3.

The Committee/Section discussed whether this motion would restrict IWP activity, or activity by a U.S. vessel in state waters. The Section noted there were no restrictions on large domestic processing vessels in state waters, but this motion would impose them. The Commission motion was withdrawn. The motion passed the Committee, 5-0.

Mr. Kendall offered the following motion:

Motion: That Area 1B be included separately for the USAP set-aside. The allowable harvest for USAP would be no more than up to 20% of the Area 1B TAC (second Mr.Smith)

Mr. Kendall clarified that this meant up to 5,000 mt of the USAP could be taken from Area 1B – this motion did not increase USAP to 25,000 mt. Several Committee/Section members spoke in opposition to the motion. Dr. Pierce commented that if it were to pass, the chance for establishing domestic processing in state waters was small. Mr. Adler said he believed this motion would result in less fresh bait available on shore. Mr. Kendall defended his motion, noting that the resource was large and a processing ship should be allowed the opportunity to find fish in Area 1B. Public comment included:

- Ms. Bichrest opposed the motion and any USAP anywhere.
- Mr. Ellenton supported the motion, noting it would give another opportunity to fishermen.
- Mr. Palino commented that small vessels were already looking for fish in management Area 1B. It would be a mistake to allow a processing vessel into that area.

The motion failed on a show of hands (1-4).

Area Specific TACs

The following motion was offered:

Motion: That TACs be recommended as identified in the decision document.
(Committee: Mr. Smith/Mr. Hill; Section: Mr. Smith/Mr. Abbott)

The area specific TACs recommended by the PDT in the decision document were:

| | |
|---------|-----------------------------------|
| Area 1A | 45,000 mt |
| Area 1B | 25,000 mt |
| Area 2 | 50,000 mt (54,000 mt TAC reserve) |
| Area 3 | 50,000 mt |

The motion passed the Council on a show of hands (3-0). The Motion passed for the Section (Yes: Maine/New Hampshire/Massachusetts/Connecticut/New Jersey).

Allocation of IWP to individual states

On the recommendation of Commission staff and with the consensus of the Section, the allocation of the IWP to individual states was postponed until a later date.

1999 Recommended USAP Specification

As directed by the Council, the Committee reconsidered the recommended specification for the 1999 USAP. Staff summarized Council discussions, noting that there was some interest expressed at the Council meeting by fishermen for an offshore processing market, and no JVP requests had been submitted to date. Committee members noted that the FMP was unlikely to be implemented until late fall. While some members said there seemed to be little advantage in changing the allocation for such a short period, others said a change would give notice of Council intent to transition from JV to domestic processing.

Motion: The recommended USAP specification for 1999 be changed to 10,000 mt, transferred from JVP to USAP, limited to Area 2 and Area 3 operations. (Council: Mr. Smith/Mr. Kendall)

Public comment on the motion included:

- Mr. Ellenton noted the Council had asked the Committee to consider an allocation of 20,000 mt. He asked that the Committee consider raising the suggested amount to at least 15,000 mt.
- Ms. Bichrest suggested putting the USAP and IWP allocations at 0 mt, rather than increase effort in Areas 2 and 3.

The motion passed (Council: 3-0, 1 abstention; Section: Yes: Maine/New Hampshire/Massachusetts/Connecticut/New Jersey)

Spawning Closure Changes

Staff summarized the PDT recommendation not to change the spawning closure boundaries, or the method of timing the closures, as explained in the draft SAFE report. The Committee did not take any action to modify the spawning closure boundaries or the fixed starting dates.

Management Area 1A – Industry Sector Access to the Fishery

Staff summarized the discussion of alternatives to guarantee access to the herring fishery in Management Area 1A by all industry sectors. The draft SAFE report contained the PDT's analysis of a TAC set-aside to guarantee access, as well as brief discussions of some alternatives to a TAC set-aside. The recommendation of the PDT was not to take any action to modify the proposed management measures. The chair suggested imposing the effort control measures at an earlier time; staff explained the PDT's recommendation against that approach.

Motion: That no management measures be adopted to address industry sector access to the herring fishery in Management Area 1A. (Council: Mr. Hill/Mr. Smith; Section: John ???/Mr. Calomo).

Several members noted the TAC system had not yet been put into effect and its impacts were unknown. They noted, however, that if the TAC leads to a derby fishery, there may need to be changes in the future. Mr. Kendall asked if there was a way to "share" the resource between Area 1A and Area 1B; that approach is not included in the FMP. Several Committee members noted the Council was considering changing fishing years and that this problem might be addressed if the herring fishing year were to start in May or June rather than July.

Public comment on the issue included:

- Mr. Kaelin supported not making any changes for the first year of the plan. As for changing the fishing year, he preferred a January 1 start. A year that started in May or June may preclude a winter fishery in Area 1A at a time of year there are few alternatives.
- Mr. Mullen supported waiting a few years to see how the fishery changes before altering the plan.
- Mr. David Turner expressed his belief the management measures missed the fixed

gear fishery completely. He said if the TAC is caught early, these fishermen won't have a chance at all. Anecdotal information is that the fish enter the weirs in numbers on one year in ten. The days out program also may prevent these fishermen from catching fish when they are available. He suggested taking anything caught in the weirs off the Canadian quota. He also noted the potential for conflicts between purse seine and trawl fishermen. Holding the fish for several days may result in the market being missed, or in weather causing the loss of the fish.

The Committee/Section discussed the fixed gear fishery. One suggestion was to not count fish as caught until they were removed from the weirs. The Chair noted that if the fishery remained open until October, the fixed gear fishermen would have an opportunity to fish. Mr. Hill noted the only real fix appeared to be sector allocations which the Committee/Section had avoided. Mr. Odlin, chair of the advisory panel, noted this was a state fishery and Maine could make necessary changes through the ASMFC.

The motion passed (Council: 5-0, unanimous; Section: Yes: Maine/Massachusetts/Connecticut/New Jersey, no abstentions).

Changing Fishing Years

By consensus, the staff was directed to continue to examine the impacts of a January 1 or July 1 start to the herring fishing year.

Other Management Measure Changes

Staff asked the Committee/Section if there were any other changes to management measures that should be considered as part of the annual adjustment process. Staff noted the discussion in the SAFE report on mid-water trawl bycatch; several Committee/Section members were hesitant to make changes based on opinions. Staff was directed to make sure USAP could be specified by management area, and that the reporting requirements would provide the information necessary to monitor USAP. In response to a public question, the Committee decided not to recommend a roe specification for the first year of the plan.

The Committee/Section discussed the discard information present in the SAFE report. Members noted the primary reason for herring discards seemed to be either no room in the boat, or no more market for the fish. These are both functions of fishermen's behavior, difficult to change through regulation. There is also some question on the mortality of herring discards in the seine fishery. The chair asked if there was any observer coverage planned; NMFS advised the staff there was no observer coverage planned for the mid-water trawl fleet in 1999.

The Committee/Section also discussed additional measures to protect Essential Fish Habitat (EFH). Both the herring spawning closures, and closures in the groundfish plan, provide some protection to egg beds. The Chair noted these discussions were continuing in the Council's Habitat Committee.

Public comment on additional management measures included:

- Mr. Dave Ellenton asked the Committee to consider a 10,000 mt allocation to the F/V Atlantic Star to catch herring in 2000. He referred to recent legislation, which gave the Council the authority to authorize harvesting by large domestic vessels. Any allocation to this domestic vessel could be taken from the JVP allocation.
- Ms. Bichrest noted the discussion never came up about allowing JVP.
- Mr. Kaelin noted concern that the DAP specification was inaccurate and would prevent the U.S. processing sector from expanding. He also noted the change the Council made to the plan objectives that removed the preference for shoreside use of herring. He asked the Committee/Section to consider revising the plan objectives.

The Committee/Section discussed Mr. Ellenton's request. Some members noted the question is whether there is adequate harvesting capacity in the fishery already, and urged caution before increasing existing capacity. The chair suggested this idea could be considered during the development of a controlled access system, which was to be discussed later in the meeting. Other Committee members noted it would take a plan amendment to change the objectives. Staff summarized that three issues to be considered for the initial framework are changing fishing year starting dates, and (pending consultation with the Regional Office), possible changes to the reporting requirements to make sure enough information was collected from vessels using USAP and that USAP could be area specific.

Controlled Entry/Limited Access

Dr. Phil Logan and Mr. Drew Kitts of the NEFSC gave a short presentation on the need for controlled access in the herring fishery, some general impacts of different management approaches, and some possible ideas that could be developed into a controlled access system. The ideas presented included a four-tier permit system that could be implemented by area:

- "A" permits: incidental catches, defined for coastal areas, available to anyone.
- "B" permits: Issued for a particular area based on history of fishing; permanent permit with individual input controls
- "C" permits: Available to anyone, allows history to be developed in other areas (1B, 2, 3). When sufficient landings made in these other areas, "C" permits are retired and converted to "B" permits for those with sufficient history.
- "D" permits: Special temporary permits which may be issued under special circumstances.

Dr. Logan noted the details of this approach would need to be developed.

Mr. Connell noted New Jersey's opposition to a controlled or limited access system, saying he did not believe one should be implemented until the plan was in place for at least a year. He was not opposed to the PDT working on a plan, and was not opposed to establishing a control date. The Chair focused the discussion on the decision to establish a control date and begin development of a plan, rather than the details of a controlled access system.

The Committee/Section discussed a control date. Some members supported a control date as a

way to control the rapid buildup of capacity while a controlled access system is developed. Others opposed the date, stating they felt it would prevent the investment in the fishery needed to develop the offshore areas at a time the resource was in a robust condition. The comment was made that the time to develop a controlled access program was before the resource was in trouble – it should be viewed as a way to control a growing fishery, not a collapsing one. Committee/Section members noted the difference between this fishery and groundfish, where there is a ready market for every fish that is caught.

Motion: That the Committee/Section recommend to the Council that we establish a control as of the date of the July Council meeting or as soon thereafter as published in the Federal Register. Three conditions as follows:

- (1) Participants who enter on or after this date may be treated differently than those with a history prior to the control date.**
- (2) Participation in the herring fishery may be determined by landings or investments made prior to the control date, and may be for a multi-year period.**
- (3) Plans for controlled access may treat participants differently based on their history of fishing in Areas 1A, 1B, 2, or 3. (Committee: Mr. Smith/Mr. Hill)
(Section: Mr. Smith/Mr. Flagg)**

Mr. Smith noted his motion meant that in the development of a controlled access system, there could be very liberal conditions set in some areas. History of performance could be different in different areas. The motion was revised to read:

Motion: That the Committee recommend to the Council that we establish a control as of the date of the Council meeting or as soon thereafter as published in the Federal Register. Three conditions as follows:

- (1) Participants who enter on or after this date may be treated differently than those with a history prior to the control date.**
- (2) Participation in the herring fishery may be determined by landings or investments made prior to the control date, and may be for a multi-year period.**
- (3) Plans for controlled access may treat participants differently based on condition in Areas 1A, 1B, 2, or 3. (Mr. Smith/Mr. Hill) (Mr. Smith/Mr. Flagg)**

Mr. Gene Martin, NOAA GC, advised the Committee/Section that his advice was not to be too specific in the control date. The Chair noted the intent was to allow different measures in different areas according to need. Public comment on the motion included:

- Mr. Glenn Robbins supported limited entry in Management Area 1A. He believes the estimates of the scientists are too high for stock size in Area 1.
- Dr. Logan questioned the wording of the motion and whether it could be implemented as the Committee/Section desired.
- Mr. Mullen supported the motion, pointing out the catch in the offshore areas could rapidly increase this year and there was sufficient harvesting capacity to take the

TAC.

- Ms. Raymond asked what "investments" meant. She said the motion is crafted to send the message there will not be additional entrants into the fishery, and the pressure will be to make implementation of the control date more restrictive than is intended.

Based on Dr. Logan's concerns, the motion was again revised to read:

Motion: That the Committee recommend to the Council that we establish a control as of the date of the Council meeting or as soon thereafter as published in the Federal Register. Three conditions as follows:

- (1) Participants who enter on or after this date may be treated differently than those with a history prior to the control date.**
- (2) Participation in the herring fishery may be determined by landings or investments made prior to the control date, and may be for a multi-year period.**
- (3) Plans for controlled access may treat participants differently based on conditions in and criteria to be established for Areas 1A, 1B, 2, and 3.**

Additional public comment included:

- Mr. Klingaman supported the motion. He noted the question of fishing mortality was being dealt with by the TAC. This motion would help address questions of fairness and allowing development of the fishery.
- Mr. Walt Raaber, F/V Providian, supported the motion. He noted there were west coast interests with the ability to enter the fishery. He also said he thinks there is less fish than estimated by the scientists.

Mr. Calomo requested a delay in the Section vote because few members were present. The Chair denied the request because there was a quorum. The motion passed (Committee: 5-0; Section Yes: Maine/Connecticut; No: Massachusetts (Chair, representing New Hampshire, did not vote).

Other business

The section reviewed Rhode Island regulations that implement the Commission's Amendment 1 to the Atlantic Herring Plan.

Motion: Recommendation to approve the Rhode Island state proposal for Amendment 1 to the Atlantic herring FMP. (Section: Mr. Flagg/Mr. Adler)

Section members asked how the Commission would approve implementation by Massachusetts and New York. Commission staff noted approval can occur by mail. Section members briefly discussed Rhode Island's implementation of spawning closure measures. Council staff noted that if vessels land in Rhode Island while Maine and Massachusetts are enforcing the tolerance provision, it could have an adverse impact on the effectiveness of the spawning closures. The Committee/Section noted this would have to be watched during the first year of the FMP.

The motion passed (Yes: Maine/Massachusetts/Connecticut)

The Committee resumed the discussion of allowing a large domestic vessel to catch herring in the year 2000. Several Committee members objected to the discussion, noting that it suggested changing part of a management plan that was not even approved yet. Others noted that since the Committee was trying to stay on an annual adjustment process, this was the appropriate time to raise the issue for the year 2000. The Chair expected this discussion to occur in the context of a controlled access program.

Public comment included:

- Mr. Ellenton reminded the Committee he was looking for an allocation in the year 2000. By considering this issue during development of a controlled access system, the Committee was saying there would not be an allocation of this type in 2000.

Motion: That there be no changes in the vessel size limit restrictions as contained in the Atlantic herring Fishery Management Plan. (Council: Mr. White/Mr. Flagg)

Additional public comment included:

- Mr. Ellenton noted that recent legislation put this issue up to the Council.
- Ms. Cardwell supported the motion, claiming Congress intended there would not be large vessels in the herring or mackerel fisheries. She urged the Committee to pass the motion.

The motion passed. (Council: 3-1-1 (one abstention, Mr. Smith).