

Summary Minutes of the

**JOINT MEETING OF THE
ASMFC ATLANTIC HERRING SECTION &
NEFMC ATLANTIC HERRING COMMITTEE**

Danvers, Massachusetts
July 8, 1997

Attendance

Section/Committee Members:

Rep. Dennis Abbott, NH Leg. Appte.

Robin Alden, Chair, ME

Steven Driscoll, NH Gov. Appte.

Bruce Freeman, NJ

Pat White, ME Gov. Appte.

Bruce Smith, NH, proxy for John Nelson

Eric Smith, CT, proxy for Ernest Beckwith

Artie Odlin, (ex-officio) Advisory Panel Chair

Dr. David Stevenson, ME DMR (ex-officio) Technical Committee Chair

William Adler, MA Gov. Appte.

David Borden, RI

Sen. Jill Goldthwait, ME Leg. Appte.

Anthony Verga, MA Gov. Appte.

Thomas Hill, MA

Alan Weiss, MAFMC Rep.

Staff:

Dr. Joseph Desfosse, ASMFC

Chris Kellogg, NEFMC

Guests:

Francis P. Kulle, Lubec Packing Co.

Vito J. Calomo, Gloucester Fisheries Comm.

Ben Rathburn, NEFMC

Peter Barbera, RI

Paul M. Earl, ITC

Janice Plante, Commercial Fisheries News

Dr. Gary Melvin, DFO-Canada

Peter Flaherty, ME

M. Mooney-Seus, New England Aquarium

Jim Odlin, Atlantic Trawling

Jennifer Goebel, New England Aquarium

Fred Bayley, K & J Fisheries

Larrs Gudbartsson, Atlas Technologies

David B. Turner, Engelhard-Mearl

John Melquist, Port Clyde Canning Co.

Martin Jaffe, NMFS/NERO

Peter Mullen, RI

Gerald Leape, Greenpeace

Glenn Robbins, ME

Jeff Kaelin, ME Sardine Council

Lee Benaka, NEFMC

Al King, King & Sons Fishing Co.

J. Sinogora, MA

Niaz Dorry, Greenpeace

Dave Ellenton, World Wide Trading

Dr. Michael Armstrong, MA DMF

Atlantic Herring Section

Danvers, Massachusetts

July 8, 1997

SUMMARY OF MOTIONS

1. ***“Motion to eliminate 255,000 metric tons from the reserve, and to maintain the current Internal Waters Processing allocations as previously approved during the March 26, 1997 meeting”.***

Motion by Ms. Alden, second by Mr. Driscoll. Motion carries 5 to 1.

2. ***“Motion to establish a target TAC for the Gulf of Maine of 100,000 metric tons”.***

Motion by Ms. Alden, second by Mr. Abbott. Motion carries 6 to 0.

3. ***“Motion to request ASMFC to adopt emergency regulations to limit vessel size to 165 feet length overall (LOA), and 3,000 horsepower for the Atlantic coast herring fishery, until the Commission’s Plan Amendment addresses the issue of horsepower and length limitations. This motion shall apply to all East Coast states as a landing law”.***

Motion by Mr. White, second by Mr. Abbott. Motion carries 5 to 0.

4. ***“Motion to request ASMFC adopt emergency regulations to restrict direct mealing of Atlantic herring (in the manner of the Maine statutes) until the Commission develops an amendment to the existing FMP to address this issue”.***

Motion by Ms. Alden, second by Mr. Abbott. Motion carries 4 to 1.

(A copy of the Maine statutes referred to in motion 4 are attached at the end of this document)

5. ***“Motion to approve the minutes of the June 8, 1997 joint meeting of the ASMFC Atlantic Herring Section and NEFMC Herring Committee.”***

Motion by Mr. White, second by Ms. Alden. Motion carries unanimously.

Mr. Borden opened the meeting at 10:15 AM and provided introductions. He asked whether there were any changes or additions to the draft agenda. Mr. Mullen asked that the Section/Committee discuss (under other business) extending the coverage of the spawning area closures to include and protect juveniles as well as adults. There were no other changes to the agenda. Mr. Borden asked if there was any public comment at this time (staff note: due to some equipment problems it was decided to review the draft scoping document instead and postpone the technical committee report until later in the day). Hearing none, the first item of business was to approve of the minutes from the June 4, 1997 joint meeting. Since the minutes had not been circulated prior to the meeting, Mr. Kellogg suggested postponing approval until later in the day in order to give everyone a chance to review them.

The next item of business was to review the draft scoping document. Mr. Weiss suggested that staff clarify where and when a Council FMP and Commission Amendment are being developed. He also added that the emphasis should not be that public input is most important at the start of the development process over any other part of the management process, since this tells the public that their input is only important at one point.

A list of suggested improvements/additions to the document includes:

- need to explain what “how to best cooperate with the Canadian herring interests” means;
- need to expand “ecological reasons” to include predator-prey interactions, etc.
- extend range map to include the southern areas, i.e. Cape Hatteras
- add a description of what happened to the Gulf of Maine stock during the collapse of the Georges Bank stock;
- explanation of why the Department of Commerce withdrew the herring plan in the early 1980's and state what the management situation was following that;
- include a brief description of the changes in stock assessment methods in recent years, addressing the change from separate stocks to one stock complex;
- expand on the importance of protecting individual spawning aggregations;
- add dumped/discarded fish to bycatch issues and gear modification in relation to size of fish desired (size of fish driven by market demand);
- expand the definition of bycatch to be consistent with the current definition under Magnuson;
- expand information on natural mortality rate and its relation to predator population sizes;
- if there are reasons for different management strategies by area, then they should be listed;
- more details should be included on the IWP permits including end-use of fish;
- include mandatory reporting and mandatory observers under data collection;
- ask the public to comment on whether the current management areas are realistic;

Mr. Kaelin stated the entire commercial fisheries description needs to be reworked, incorporating more social and economic data, and a breakdown of the catch by current uses. He added that if this document was not the appropriate place for that information then the data should be included in the new FMP or Amendment so that the public will know what the resource is used for. Mr. Kellogg stated that for Council purposes this was a scoping document designed to generate public comment and identify where there are gaps and public concerns. Subsequent drafts of the public hearing document and draft FMP would include more details along with one or more preferred management alternatives. The main purpose of the document is to announce the start of a formal process to develop an FMP under NEPA procedures.

Ms. Alden asked how staff envisioned the two plans and how their actions would affect or interact with each other. Dr. Desfosse replied that staff had discussed this earlier and there appeared to be three types of potential actions. The first was short-term action, that which states could implement on their own this season. The second were mid-term measures and they could be developed under the Commission's amendment, while long-term issues and actions could be addressed under the Council FMP. Some of the long-term issues may also be addressed under the Commission amendment as well. Ms. Alden added that each committee could then discuss which measures would fit into that category and decide whether it was feasible to accomplish in their regulatory process.

Mr. White asked if there was a particular reason or reasons why some of the objectives appeared to conflict while others were redundant. In particular, objectives c, e and f were in conflict. Mr. Kellogg replied that the objectives came from a number of different sources and may address slightly different concerns. The slate is open for the Section and Committee to determine what they see as being the objective(s) of the plan. Mr. Borden added that some of these may fall out or be excluded based on public comments voiced during the scoping process. Mr. Weiss asked staff to discuss with NOAA General Consul the possibility of conflict with National Standard 4 and objective c, "provide opportunities for vessels displaced by fishing restrictions in other fisheries in the northeast". Mr. (Eric) Smith stated that we should go out for public comment with the objective as it was in order to gauge the public's concerns before consulting with NOAA. Ms. Alden added that since there was a possibility for expansion in the fishery, and it was unusual, this presented all kinds of issues that managers were unaccustomed to. Therefore, it was a responsible action in taking this document out with all of the objectives listed here. We should be grappling with how we want that expansion to occur and making it orderly.

Mr. Hill stated that staff should find a way to articulate to the public the need for fishermen's input concerning gear modification in relation to size-selectivity and impacts on the resource. Mr. Mullen asked the question be considered for all gear types used in the herring fishery. Mr. Moore suggested that discards could be minimized by encouraging full utilization of the catch. Mr. Calomo stated that the midwater trawlers utilized nearly all of their catch since there were different bait markets which required different sized fish to satisfy. Fishermen also search for certain sized fish depending on the demand back home. The fishermen can make test sets to see what size fish are there and then decide to move on or continue fishing there. Mr. Robbins suggested that a small try net could be employed by trawlers instead of modifying their nets with escape panels or other changes. Ms. Alden suggested that full utilization of the resource be added as a management objective but that there be no direct mealing in the fishery.

Ms. Alden asked whether enough of the appropriate questions were contained in this document to move from a PMP to an FMP. Mr. Jaffe stated this document puts the public on notice that the Council and ASMFC intend to manage the fishery, until the document goes before the Council and is approved, then the process starts towards developing an FMP. What you want to do here is establish the issues for discussion.

Mr. (Eric) Smith asked for further clarification on the meaning of full utilization. Ms. Alden replied that the intent was to maximize full utilization of the fish caught. Mr. Smith stated that no direct mealing could be added as a potential management measure and not as an objective. Full utilization should be defined as reducing waste in the fishery and not a full utilization of the stock, therefore adding no direct mealing as a management measure would be appropriate.

Mr. Weiss asked whether comments should be directed to one agency or both. The Section/Committee agreed to have two contacts for comments and it would be a staff responsibility to collate and distribute the comments. Mr. Adler asked what the timeframe for development would be. The schedule would depend on when this document was approved, given mandatory waiting periods for public hearings and comment periods. A target date for approval of the ASMFC amendment was discussed. Comments by the Regional Director and NEFMC Chairman have expressed the view that they would like to have a plan sometime in 1998, possibly in the spring. Everyone agreed that this should be a target timeframe but that it would be an ambitious schedule. It was agreed that this would be more likely under the Commission process but might take longer for the Council given the Magnuson process. Mr. Hill added that much would depend on the complexity of the document. If it addresses specific items versus an all-encompassing document as proposed. Mr. Borden added that the Council FMP would have to meet all of the new Sustainable Fisheries Act goals, therefore there would be additional guidelines to meet and some of those were not defined as yet.

Mr. Jaffe reiterated that the Commission was in a much better position to get a plan in place quickly and the ASMFC process required some complementary language concerning management measures for the EEZ, whereby in the absence of a Federal plan, the Secretary could adopt the complementary measures for the EEZ.

The Section/Committee agreed by consensus to approve the document for the scoping hearings pending staff revisions. Staff was instructed to circulate the revised document, with a one week comment period for Section/Committee and Advisory Panel members. If there are no substantive comments then staff should begin to schedule the scoping hearings.

The Technical Committee report was presented by Dr. David Stevenson (see attached). The Technical Committee (TC) met July 1, 1997 to address estimates of short-term and long-term potential yield for the coastal stock complex, and total allowable catch estimates (TACs) for the three management areas. Other issues to be addressed by the TC by September include evaluation of a Gulf of Maine (GOM) assessment, review acoustic survey results, and update the VPA for the entire coastal stock complex.

The following points were made:

- The herring stock assessment is tentatively scheduled to be updated and reviewed during the December SARC. Dr. Stevenson suggested that a letter from both chairs to Dr. Anderson would be helpful in conveying the importance of keeping herring on the agenda.
- The coastal stock complex is large and underutilized based on results of last fully-reviewed assessment in 1995. The estimated TAC for age-2+ fish is 757,500 mt and for age-3+ fish it is 540,000 mt.
- The estimated portion of the overall stock which resides in Area 1 (Gulf of Maine) is 20-25%.
- The current age-2+ TAC for Area 1 is therefore 190,000 mt. The current age-2+ catch is 96,000 mt. Relative to the 1996 harvest, this translates into a surplus exploitable biomass of 94,000 mt of age-2+ herring that could be taken in the Gulf of Maine at this time.
- A preliminary estimate for long-term sustainable yield for the coastal stock complex is 285,000 mt based on results of a stock production model (ASPIC).

- Following the earlier estimates of stock distribution, the long-term potential yield of age-2+ herring in Area 1 is 70,000 mt, a level exceeded by 25,000 mt in 1996.

Dr. Stevenson emphasized that there were two sets of “correct” numbers. These are the estimates of long-term potential yield based on the ASPIC results, and the TAC estimates based on current stock size. The first is a reflection of what can be taken out of the stock annually over the long run, while the latter reflects what can be harvested now, given the large size of the offshore stock component. The long-term estimates should be viewed as targets of where we want to be in the future as the stock size begins to decrease, and not as some level that should be reached immediately. This can be used to develop a strategy for reducing the catch in Area 1 and as a benchmark to monitor the status of the stock in all areas.

Drew Kitts presented results of a preliminary analysis of potential harvesting capacity in the Northeast region in relation to the herring fishery (see attached report).

The following points were made:

- Unaudited catch and effort data from 1996 was used in the analysis;
- 278 vessels were uniquely identified as catching and selling herring in the northeast. These were grouped by tonnage class, gear type and principal state of landing.
- Average daily catch rates and average number of days spent herring fishing were calculated by gear type and each tonnage class.
- Vessels not targeting herring in 1996 were then categorized as either “more likely to enter” or “less likely to enter” the herring fishery based on whether or not they caught other species in a similar manner to herring (squid, mackerel, butterfish, menhaden, etc.).
- The increase in effort expended for herring fishing was then estimated based first on the addition of the more likely vessels and then with both categories. Catch rates of the new vessels were assumed to be similar to corresponding tonnage classes and gear types.
- An additional 69,404 mt of herring could be caught by the more likely to enter vessels based on 1996 catch rates, the addition of the less likely to enter vessels could result in another 38,384 mt of herring caught.
- A combination of scenarios based on the estimates provided could be formulated to describe potential changes in the fishery. Ultimately, decisions to enter the herring fishery would be based on whether it was cost-effective to convert existing vessels. This study did not examine the effects of new vessels being built or vessels relocating from the west coast.
- The additional catch estimates should be evaluated against the overall TAC and not by stock area.

(The Section/Committee broke for lunch at 12:30 PM)

Mr. Borden asked Dr. Stevenson how accurate the estimates on stock size were for the Gulf of Maine given the data used for this was from tagging studies conducted in the 1970's. Dr. Stevenson replied that although the data were old, we do know that fish which spawn in the GOM intermix with other fish over the winter to the south. Mr. Freeman asked if we were to partition the stocks in some manner, how can we be sure that the winter fisheries are not adversely affecting GOM fish. Dr. Stevenson replied that we could not account for that now, but added that some portion of the GOM catch in the summer would be made up of a mix of stocks as well. Mr. Borden asked if this was the case for fisheries on Georges Bank

also. Dr. Stevenson replied that it was not as true since there was no large quantities of fish there in the winter but there would be a mix of fish there in the spring and summer.

Mr. White asked why the overall TAC for the coastal stock complex increased from 1996 to 1997 if the numbers were based on the same assessment. Dr. Stevenson replied that some revisions to the assessment based on Dr. Anthony's input last March and NMFS spring trawl survey data which indicated large numbers of juvenile fish in southern New England, led to the upward revision in the TAC from 470,000 to 540,000 mt. Mr. Borden asked where the 150,000 mt figure that has been cited recently came from a formal assessment or review. Dr. Stevenson replied that it was generated for a status of the stocks report by NMFS independently of the SARC.

Mr. Borden asked what the next steps were for the TC to update the assessment. Dr. Stevenson said there were still some otoliths to be read to finalize the 1996 catch-at-age data but the TC should be able to update the VPA by September and have it reviewed during the December SARC. The TC would also have preliminary data on a GOM assessment in September and the ASPIC results would also be reviewed at the SARC.

Mr. Borden asked for clarification on the TAC estimates for each of the management areas. Dr. Stevenson replied that the TAC estimates did not correspond to stocks but to the amount of herring that could be harvested during the year from each of the management areas. These estimates already account for stock mixing, but what still needs to be accounted for is the proportion of GOM fish that are taken in the winter fishery in southern New England and the mid-Atlantic.

Sen. Goldthwait asked how the TAC estimates could be larger (almost 2.5 times) than the preliminary MSY estimates. Dr. Stevenson replied that the amount of herring currently in the ocean is 2-3 times more than what we can expect to be there on a long-term basis. It was then a matter of either managing based on the long-term reference point or the short-term, i.e. managing what is out there now.

Mr. Kulle asked what the available biomass of two year-old herring was. Dr. Stevenson replied that there was approximately one million mt of two year-olds in the stock complex and about 200,000 mt could be harvested from the stock complex at this time. Mr. Kulle stated his concern was with what could be safely harvested from the "inshore" stock (i.e. GOM), given the estimates are driven by the overall stock abundance, and not just the GOM stock. What protection is afforded the overall stock by fishing both the adults and juveniles at such rates. Dr. Stevenson stated the present age-2+ and age-3+ TAC's were estimated by applying the same fishing mortality rates as to the rest of the stock, similar to what was done in March during the IWP allocation discussions. The area 1 portion of age-2+ biomass was estimated by applying the same 20% figure to the overall abundance of age-2+ fish in the stock complex. Dr. Stevenson added that the current process in the ASMFC plan for determining IWP allocations requires estimating the size of the adult and juvenile portions of the overall stock complex and determining what a safe level of removal from each would be. If catches should approach a safe levels of harvest from a given area or stock, we have to look at the distribution of ages in that catch. If we have a fishery that, as in the past, was concentrated on juveniles, you could not assume that you could take that same tonnage overall.

Mr. Mullen asked if it was known how many juveniles were taken in the GOM every year and how much confidence was in those estimates. Dr. Stevenson replied that it was roughly 20,000 mt each year and most from New Brunswick, and are assumed to be part of the same (GOM) stock. These figures may be underestimating the actual catch depending on how many juveniles were taken for the bait market. The

juvenile fishery in the late 1970's and 1980's accounted for upwards of 50,000 mt between New Brunswick and Maine. Today, fishing pressure on juveniles is not nearly what it used to be because the demand is not there. Mr. White asked how much of the catch was being underestimated. Dr. Stevenson guessed that it could be 5-10,000 mt.

Mr. Adler asked whether these TAC's were just for the American harvest or included Canadian harvesting as well. Dr. Stevenson replied that it was for overall harvest and would be a major management issue for the future.

Mr. Driscoll asked how many sardines, were used by the canneries last year. Mr. Kaelin replied that of the 35,000 mt of herring used in the canneries, 10% were juvenile herring and 40% of the herring went to lobster bait. No significant amount of juvenile herring have been utilized in the canneries since 1981. Approximately 50,000 mt of herring were harvested for lobster bait in the GOM.

A brief discussion ensued concerning the disposition of Canadian landings with the understanding that all removals of GOM fish were accounted for regardless of where they were being landed and subsequently shipped for assessment purposes. Dr. Melvin added that most of the New Brunswick harvest was from wiers and shutoffs (nets) and there are weekly reports of these landings. This fish are attributed to area 5Y migratory fish while any herring taken by other gear and landed in this area are attributed to area 4WX fish. Therefore, all of these fish are accounted for in the assessments.

Mr. Moore asked how the ASPIC model treats historical catches in relation to the present adult fishery vs. a juvenile fishery in the 1970's. We could be making a large numbers of fish error in the present estimates if we equate the two time periods. Dr. Stevenson replied that the ASPIC model is different from the VPA in that ASPIC operates strictly on a biomass level, all that is required for catch is tonnage estimates, regardless of age composition data.

Mr. Borden pointed out that one of the differences in the Canadian assessment was to incorporate larval survey results in their methods. The larval abundance estimates indicate that they are presently one-half the level of the early 1970's and on that basis estimate that the stock size is between 100-200,000 mt for Georges Bank of age-3+ fish. Therefore the allowable harvest based on their methods would be 20-40,000 mt. These estimates are tempered by the fact that much of the previous areas were not recolonized until 1992 and the fact that most of the spawning stock biomass is represented by young fish, where the age composition is still truncated to a certain degree. Dr. Melvin added that the Canadian assessment is not a full-blown assessment of Georges Bank since that requires a fishery to exist from which to gather catch data and they only compare the larval survey data to historical stock sizes. Also, Canada is promoting conservation so that when in doubt they take the lower number to be the estimate. The Canadian assessment only covers Georges Bank from the Great South Channel and the larval indices for Nantucket Shoals have been extremely high in recent years.

Mr. Borden then asked whether there were questions concerning the harvesting capacity report. Ms. Alden asked if the weir fishery in Maine was accounted for. Mr. Kitts replied that there were no weir catches reported in their database. Dr. Stevenson added there was no catch from that sector in 1996 and these data were from the vessel trip reports. Mr. Kitts added that the dealer reports may account for some of that catch but it would show up as unidentified gear type in the reports.

Mr. Freeman asked if there would be any significant changes in the analysis if a different period was used, perhaps 1994 or 1995. Mr. Kitts replied that 1996 was chosen since that was the most recent year

and since the catches were increasing over recent years, it would be more representative of the current situation. Mr. Barbera asked if any attempt was made to analyze based on changing market conditions. Mr. Kitts replied that only the physical capacity to harvest was examined.

Ms. Alden stated that the days absent represented in this report seem to be extremely low compared to a Maine study and this could be related to the definition of a trip. Dr. Logan replied that some of this could be attributed to the trip definition in terms of a 12 vs. 24 hour day and the catch rates could be different due to the effects of averaging as well.

Mr. Borden stated that for the sake of discussion we could assume that capacity could be identical from this year to the next and we could wind up with a harvest of 104-110,000 mt and for a worst case we could assume that all of these vessels entered the fishery and we could wind up with a harvest of 240,000 mt. Given the possibility of some misreporting or under reporting, we could have a harvest in excess of this.

Short-term Protection Measures

Mr. Borden stated that before discussing specific measures for the GOM, the Section/Committee might discuss modifying the numbers consistent with the TC's recent advice. The Commission's IWP process was based on the earlier 540,000 mt ABC in March. Comments from the RA and the NEFMC suggested that this be reviewed on the basis of long-term yield estimates. The TC's estimates have not gone through the peer-review process but the estimate for long-term potential yield in the fishery should be close to 285,000 mt including the potential Canadian catches on Georges Bank. If the Section wants to revise these numbers, and if so, do we wish to set some target TAC's by area. Mr. White stated that he would like to set a more conservative harvest target. Ms. Alden stated that it would be helpful for the industry for their long-range plans if we could distinguish between the short-term abundance and the long-term situation. Mr. Borden stated that we probably would not need to take an emergency action to revise the numbers but if we were to take allocations away from those states which received them in March we would need some emergency action. To remove a portion of the allocation that went into reserve probably would not require an emergency action. If we wanted to expand the spawning closures, add a closed season or put on trip limits would require an emergency action. Perhaps we should put the range of actions to be considered on the table and then determine whether an emergency action is required or not.

Ms. Alden stated that she was comfortable with the level of advice from the TC and it is the best we can use for this interim period as we develop a plan and was ready to accept the estimates for the GOM since it was very apparent that the growth in the stock was not in the GOM. In terms of choosing a TAC for the GOM she was ready to accept the estimate of the long-term potential yield in the GOM which would be 25% of the 285,000 mt. Mr. Freeman asked whether there would be any other body reviewing these numbers or the decisions based on them and if the Section had the authority to make the decisions. Mr. Borden replied the Section had the authority to revise the numbers since it was the Section which adopted them in the first place. In terms of assessment process, the SARC would review the TC's results and the Section would review the information on a yearly basis if necessary. Mr. Borden asked whether we should back down from the 285,000 mt based on the potential Canadian harvest whose share would have to be negotiated at some future time. It would not be responsible for this body to assume that all would be allocated to US fishermen. Dr. Stevenson added that the 285,000 mt figure is a much more stable figure than the 540,000 mt in that it takes into account many years of data while the latter only reflects the current stock size estimate which will be subject to much more variation than the long-term

yield estimate. Mr. Borden commented that the Section would need a motion to revise any of the previously adopted numbers.

Mr. (Bruce) Smith asked if the Section would be able to re-examine the reserve allocations following the updated assessment, and grant allocations out of the reserve based on the most current information. Mr. Borden stated that if the reserve was left at the current level it might send an erroneous message to the industry because its not known how long we can harvest at that high level (ed. 540,000 mt ABC). Mr. Driscoll asked if freezing the reserve until after the updated assessment would accomplish the goal. Mr. Borden said that the NEFMC had suggested that no allocations be made out of the reserve.

(The Section/Committee took a short recess to allow staff to locate the current allocation figures)

“Motion to eliminate 255,000 metric tons from the reserve, and to maintain the current Internal Waters Processing allocations as previously approved during the March 26, 1997 meeting”.

Motion by Ms. Alden, second by Mr. Driscoll.

Ms. Alden explained that this would decrease the reserve from 323,000 mt to 68,000 mt, and leave the IWP and JVP allocations at the previously approved levels (70,000 and 40,000 mt respectively). Factoring in the estimated domestic harvest for the 1997 fishing year of 107,000 mt would bring the total potential harvest to 285,000 mt.

Mr. Ellenton asked for an explanation stating that he thought after the previous scientific analysis and discussions, the Section had agreed upon an ultra-conservative TAC of 540,000 mt, the majority of which was placed into a reserve that was not going to be released until after referring back to the scientists. The wording of this motion says you no longer believe that science, and the potential yield of the stock for next year is what we were talking about as being the long-term. Sen. Goldthwait replied that based on subsequent scientific analyses, the age-3+ TAC that was approved last March of 540,000 mt. was no longer valid as a long-term potential yield. When this figure was approved last March it was believed to be a sustainable yield when in fact, the age-2+ MSY estimate for the whole stock complex was only 285,000 mt. This move to take a significant number of tons out of reserve is an attempt to make the potential allocations correspond to our current understanding of MSY.

Mr. Ellenton asked what subsequent scientific analyses took place that changed the numbers from last March. Mr. Borden replied that the TC met last week to provide answers to some requests by the NEFMC and individual commissioners, specifically to address the question of a short vs. long-term removal strategy. Mr. Ellenton asked if the Section was then applying that long-term removal strategy to the short-term, for this year’s fishing season. Mr. Borden replied that the 540,000 mt was set up is that the assumption for the domestic landings would be X, (107,000 mt allowing for 25,000 mt of growth, the 540 does not restrict in any way under the ASMFC plan the domestic harvest, its not a quota. The reserves could be automatically drawn from by the domestic industry, this action would change the amount that could be drawn from by the domestic industry. Mr. Ellenton asked if it was possible to work with both sets of numbers given that the Section would meet every year and they could reevaluate the situation based on the current scientific advice. Mr. Borden replied that the 285,000 mt figure is about 2.5 times the current harvest, therefore it allows for significant growth in the industry without sending out false signals. Dr. Stevenson clarified that the age-3+ TAC of 540,000 mt for 1997 was never

intended to be an MSY estimate and therefore cannot be equated with the 285,000 mt estimate of long-term potential yield or MSY.

Mr. (E.) Smith stated that we may want to start with the long-term estimate which approximates MSY and from year-to-year, permit more or less fish to be harvested based on the scientific evidence. This would be almost a reverse of the current process where we estimate what surplus is available for the current year regardless of what the long-term potential might be.

Ms. Alden stated this motion allows for a 215,000 mt non-IWP catch, room enough for a doubling of the current catch estimate for 1997 which included a 25,000 mt increase due to anticipated growth in the fishery from 1996 to 1997.

Mr. Hill asked why the Section could not just meet and vote from year to year on whether to allocate from the reserve or not. He asked why would we want to send a message that these fish were not available for harvest when in fact they are. Mr. Freeman stated that there was confusion in the industry concerning the age-3+ TAC (540,000 mt) in that they believed these high amounts could be taken for a very long time. The charge to the TC was to reexamine the data and evaluate what the long-term potential yield might be. By having an estimate of the long-term potential yield, managers can begin to put together management strategies for the next several years. Ms. Alden said she saw this action as a shift in management policy from operating recently with record high levels of herring and doing the standard analysis of what should be done for this year. In the long-term we know its not going to be this good and we have an opportunity here to manage a fishery and not have it crash. This is a chance to say that our fundamental policy is to look at the long-term levels but we are also going to look at it from year to year if necessary.

Mr. Weiss stated that in the MAFMC's yearly deliberations on mackerel the following specifications must be made, long-term potential yield, allowable biological catch which varies from year to year depending on the state of the stock. The ABC can sometimes be substantially greater than the long-term potential yield as is the case here. The initial optimum yield (IOY) must also be specified, set in line with the performance of the fishery and this would be substantially below the ABC and somewhat below the long-term yield. Embodied in that framework is the IOY can be increased at any point during the year as deemed appropriate. The long-term management goal of the fishery is guided by the long-term potential yield. Sen. Goldthwait asked how we would deal with the issue of capitalization and increased participation in the fishery if the industry bases their decisions on the 540,000 mt and two years later they can only harvest the 285,000 mt. This motion allows them to plan ahead based on the long-term potential yield of the fishery.

Mr. Abbott asked if this motion would affect the current year's fishery. Ms Alden replied that the only function of the reserve was for additional IWP allocations. Domestic vessels have no restrictions in the current plan and therefore this motion has no affect on them. There are still 68,000 mt in the reserve in case the IWP fishery should require any additional allocation.

Mr. Calomo stated that managers should not be telling the industry what to do based on economics but rather how much fish are available to be taken at a given time. The choice of whether to fish or not, economically, should be left up to the individual fisherman. The industry has had enough trouble with the effects of Amendment 7 and if fishermen want to go herring fishing they should be allowed to based on the amount of fish available now. Mr. Robbins stated he did not agree with the scientific estimates of herring stock size, the fish are not out there in any abundance especially in the GOM. The fishermen will

regulate themselves in and out of the fishery based on the available fish. The landings are increasing because there is more effort in the fishery. Mr. (E.) Smith offered an alternative to the motion in that the Section could adopt the 285,000 mt as the long-term potential yield, make the point that in the short-term you could harvest the 540,000 mt but it is not a sustainable harvest. The Commission already has a process where each spring we review the numbers and make allocations based on the most recent scientific data, why not continue to operate in that fashion. A brief recess was held so that the state delegations could caucus before voting.

Motion carries 5 to 1.

Mr. Borden stated the Section/Committee had put off any actions concerning what a safe removal rate from the GOM should be for some time. The TC has provided some advice in that preliminary analyses indicate that the long-term potential yield from Area 1 is approximately 70,000 mt (age-2+).

“Motion to establish a target TAC for the Gulf of Maine of 100,000 metric tons”.

Motion by Ms. Alden, second by Mr. Abbott.

Mr. Borden stated the remaining 185,000 mt would be available for allocation in management areas 2 and 3. Ms. Alden said this TAC represents the status quo of the fishery and would provide a benchmark for the future to measure the status of the GOM, measure it against the results of a GOM VPA when available. Mr. Borden added this benchmark can be used to keep track of progress in the GOM. If we are exceeding this in the future, it may point out that we need to take additional action. Mr. Odlin said that the GOM as it is fished now is not the GOM which corresponds to management Area 1, it's too big. Though he supported a TAC for the GOM, there are a lot of Georges Bank fish captured in the GOM. Ms. Alden replied that in the scoping process for the PID this question will be asked and comments will be incorporated into the draft FMP.

Mr. Flaherty asked how the 25% distribution estimate for the GOM was chosen. Dr. Stevenson replied that it was based on tagging studies conducted in the 1970's, but it is a rough estimate. Mr. Adler asked if this target TAC would include the New Brunswick harvest as well. Ms. Alden replied that was the intent, it's how we have always calculated the GOM harvest in the assessment.

Motion carries 6 to 0.

Ms. Alden stated that at the last Section meeting, a possible extension of the spawning closures for this season were discussed and Maine was proceeding in that manner. It was her understanding at that meeting that the two other GOM states would proceed in like manner. Subsequent discussions have indicated that New Hampshire is under a much more rigorous rule-making process and would not have the regulations in place for this year. Discussions with Massachusetts indicate they are in the process of evaluating whether they can make the necessary changes.

“Motion to request ASMFC to take emergency action to extend the spawning season closures in the Gulf of Maine, by adding one week at the beginning of the existing closures.”

Motion by Ms. Alden, second by Mr. Freeman.

Ms. Alden gave an overview of the current Maine spawning closures and the effect this motion would have on them. Dr. Stevenson added the starting date of the closures are flexible depending on the state of maturity of the fish (GSI). The index would be lowered in order to add the extra protection earlier in the season. There are automatic closure dates just in case there are not adequate samples available to determine the GSI. Area 1B is not subject to a flexible closure date, it closes on Sept. 15.

Mr. (Bruce) Smith stated that there are inconsistencies in what Maine is proposing and what New Hampshire is doing. Although New Hampshire supports the concept, there are problems with their lack bycatch during the closure and the mechanism for assessing additional closure areas. At this point, they cannot support the proposed action.

Mr. Adler stated that he could not support the emergency action as well. The state of Massachusetts has the ability to make these changes and if need be, the state can take the emergency action, not the Commission. He would rather not have the Commission do something that the state could do on its own. Mr. Borden replied that the Commission, through an emergency action, its incumbent upon the state to do whatever they can through their own regulatory authority to adopt emergency actions. Mr. Adler replied that Massachusetts may want to address this issue in a different manner and under this emergency it would have no options to pursue. Mr. Borden stated that it sounds like the neighboring states were sympathetic to the desire to change the closures but the exact mechanisms need to be worked out by the individual states. Ms. Alden stated that she made the motion with the understanding that New Hampshire would not be able to act on it this year. After speaking with Phil Coates this morning, it is my understanding that Massachusetts could act on it this year. The Section has expressed its frustration that with no management plan in place, we are limited in the protection we can offer the stock, especially in the GOM. This action is one of the few tools we have under the current ASMFC plan to protect the stock. Spawning closures offer tremendous protection for the fish.

Mixed comments were offered by the audience concerning a shift in the fishery onto juvenile herring and the relative effectiveness of spawning closures.

Ms. Alden then stated that she planned on withdrawing the motion and to work with the other states on this issue. Dr. Stevenson said the discussions with Massachusetts should include the concept of the flexible starting date, something which Massachusetts was not in support of at the present. Ms. Alden withdrew the motion which was agreed to by the seconder.

Mr. Borden stated that the next agenda item was to address the issue of limits on vessel size and horsepower. Mr. Freeman said he was concerned over the orderly development of this fishery in terms of overcapitalization and when problems arise it becomes a matter of restricting the catch through various mechanisms. He was concerned that although there was room for development, a very rapid increase in development and catches over the short term could have drastic consequences on this fishery for the future. Therefore, there should be some restrictions placed on the size of the vessel or the harvesting capacity of vessels which can harvest large quantities very quickly.

Mr. Borden stated that this topic was discussed in detail at the NEFMC meeting and the result was the Council passed a motion which asks ASMFC to consider horsepower and vessel length restrictions, recognizing the fact the Council plan is going to take a lengthy period of time to develop, and the only mechanism available for addressing this issue is the ASMFC plan. Therefore, this should be viewed as an ASMFC issue and the proposal that has been put forth was for a vessel length cap of 165 feet and

various horsepower levels of 2,500 and 3,000. Mr. White said that for the purpose of discussion he would make a motion to adopt regulations restricting the vessel size to 165 feet and 3,000 horsepower.

“Motion to request ASMFC to adopt emergency regulations to limit vessel size to 165 feet length overall (LOA), and 3,000 horsepower for the Atlantic coast herring fishery.”

Motion by Mr. White, second by Mr. Abbott.

Mr. (Eric) Smith said this was one of the more troubling debates that the Council had to deal with. The Congressional language has a caveat in it that prohibits large vessels until such time as an amendment or plan has addressed that issue. This would provide a temporary freeze on such gear and not an outright prohibition forever, until there has been more debate and it has gone out for public comment. Both the maker and seconder agreed that the following language should be added to the motion on the floor:

“until the Commission’s Plan Amendment addresses the issue of horsepower and length limitations.”

Ms. Alden asked whether this should be an East Coast landing law in order to be a proper emergency action. Mr. Borden agreed and the maker and seconder agreed to the additional language as follows:

“This motion shall apply to all East Coast states as a landing law.”

Mr. Driscoll stated that although he was not advocating the use of large vessels such as the Atlantic Starr, but if he happened to be the person who spent millions of dollars to go fishing and then have this emergency action taken which stops him, he would be talking to his lawyer. Mr. (E.) Smith agreed and stated that was his reason for the sunset clause on this motion, not to ban large vessels outright forever. Possibly in the plan development process we can develop a way where someone who has committed to fish can be afforded an opportunity under the new plan. Mr. White asked if this was accomplished under the amendment to the motion. Mr. Smith replied that it was for the long-term, but if someone wanted to fish this season, as Mr. Driscoll was referring, he would not be able to.

Mr. Leape stated that this motion might leave open an unintended loophole concerning large vessels which previously had participated in the fishery prior to April 1, 1997. The Congress is working on addressing this issue, probably by removing the date clause in their bill.

Mr. Calomo said although this action was aimed at a specific vessel, he had a problem with it because it might be restricting other Americans who were building a large vessel. There should be some sort of provision for vessels under construction. Sen. Goldthwait stated this was the same case as before but from the opposite side. It was said before that this was the American way, where you take your chances and that’s the way it goes. Mr. Calomo replied that the science had not changed and there are still 3.6 million mt of herring out there. Sen. Goldthwait said replied what you’re saying is that if you’ve started building a boat, it should be our responsibility to make sure you get your investment out of it. Mr. Borden added that he viewed this action as a temporary restriction until both the Council and Commission address the issue in their plans.

Mr. Robbins stated trip limits might be more effective since a 165 foot vessel can still haul a lot of fish. Mr. Borden replied that trip limits were one of the options identified in the PID as a potential management measure. Mr. Barbera agreed with Mr. Calomo in theory but in practice said that boats are

shut out of fisheries everyday even with a history in the fishery. He agreed with the motion that was on the floor. Mr. King said that he supported the motion and would like to see it made a permanent one. We have just spent 25 million buying out capacity in the northeast and its probably the best management measure so far. Where is the common sense that says we buy out this capacity and then let in vessels that are larger than any other vessels fishing in the fishery. This one vessel is capable of harvesting 60,000 mt and to let it in would be a mistake. Mr. Odlin said he supports this motion and it is an emergency. This is not about one vessel, there are three 270 foot vessels in Hong Kong right now that were US vessels reflagged to Russia, trying to be reflagged back and auctioned off, and are bound to be coming to the east coast.

Ms. Alden said that she supports the motion. She received a letter from John Barnes who has ten vessels, all over this length limit. He is interested in harvesting herring for bait and some direct mealing. Since this is a temporary action and he is in the menhaden business I will still support this motion. Mr. (E.) Smith said that after listening to these comments we may want to send a clearer message and not one that says maybe in eight months you can get into the fishery. Sen. Goldthwait asked whether the federal language would supersede this action anyway. Mr. Smith replied that he presumed so. Mr. Hill asked what the difference was between two 165 foot vessels with 3,000 hp each and one 300 foot vessel with 6,000 hp. He stated that this did not seem to have anything to do with conservation. Mr. Borden replied that there was a large difference in effective fishing power between smaller vessels and the larger ones, with the larger ones being much more efficient. Mr. White added that the larger vessels also tend to affect the behavior of the herring schools.

Mr. Adler asked how soon would this action go into effect. Mr. Borden replied that as soon as the Commission approved it and the states could take appropriate action.

The following is the language of the perfected motion:

“Motion to request ASMFC to adopt emergency regulations to limit vessel size to 165 feet length overall (LOA), and 3,000 horsepower for the Atlantic coast herring fishery, until the Commission’s Plan Amendment addresses the issue of horsepower and length limitations. This motion shall apply to all East Coast states as a landing law.”

Motion carries 5 to 0 (Mr. Freeman left the meeting prior to the vote).

Mr. Borden stated the next issue concerned direct mealing of herring and asked if it was desirable to have an emergency action to prohibit direct mealing in the same manner as the previous motion until the FMP addresses the issue. Mr. Kaelin described how the prohibition on direct mealing in Maine works, where herring, since it is a food fish, can not be mealed unless it has been rejected for processing. The herring that are rejected for processing in northern New England are then sent to Black’s Harbour to be mealed. Ms. Alden read the Maine statute pertaining to mealing of herring. Ms. Alden then made the following motion:

“Motion to request ASMFC adopt emergency regulations to restrict direct mealing of Atlantic herring (in the manner of the Maine statutes) until the Commission develops an amendment to the existing FMP to address this issue”.

Motion by Ms. Alden, second by Mr. Abbott. (A copy of the Maine statutes are attached)

Mr. Abbott asked why this action was necessary at this time. Ms. Alden replied that the potential problem were vessels contemplating entering the fishery that could both freeze and meal herring at sea. Mr. Earl asked if the Maine restrictions applied to IWP operations as well. Mr. Kaelin replied that they did.

Motion carries 4 to 1, with New Hampshire voting against it.

Mr. Borden asked if there was any other business before the Section/Committee. The only issue he had was that of the juvenile vs. adult fishery which would go out for public comment during the scoping process. Ms. Alden added approval of the minutes from the June meeting was needed, as well as whether the Section/Committee should write a letter to Dr. Anderson concerning the December SARC, urging them to not postpone the review of the herring assessment. There was a consensus of both committees to do this. Mr. Kellogg replied the normal process was to verbally convey those wishes during the SAW Steering Committee meeting. The herring assessment has already been identified as a top priority for December and the unanimous consensus of this group would be forwarded at the upcoming steering committee meeting. Mr. Borden asked if there were any changes or additions to the minutes.

“Motion to approve the minutes of the June 8, 1997 joint meeting of the ASMFC Atlantic Herring Section and NEFMC Herring Committee.”

Motion by Mr. White, second by Ms. Alden. Motion carries unanimously.

Mr. Kaelin asked that the minutes reflect that the Section/Committee agreed to support the justification and request concerning herring research needs. A letter will be circulated to the House and Senate requesting one million dollars for research and it would be helpful to have a letter of support from these committees. Mr. Borden agreed that this correction should be made.

The meeting was adjourned at approximately 6 PM.