

# Atlantic States Marine Fisheries Commission

## Atlantic Herring Advisory Panel

### Conference Call Summary

*April 9, 2012*

**Present:** Jenny Bichrest (ME), David Ellenton (MA, Chair), Jeff Kaelin (NJ), Peter Moore (ME), Patrick Paquette (MA), Dana Rice (ME), Mary-Beth Tooley (ME), Steve Weiner (MA), and Chris Vonderweidt (ASMFC Staff).

**Observers:** Lori Steele (NEFMC)

The Atlantic Herring Advisory Panel (AP) held a conference call to review New England Fishery Management Council (NEMFC) Draft Amendment 5 to the Fishery Management Plan for Atlantic Herring (Amendment 5). The Atlantic Herring Section (Section) asked the AP to provide feedback on Draft Amendment 5, which they will consider when developing written comments to the NEFMC on the document.

The AP meeting began with ASMFC staff explaining that the AP report will be forwarded to the Atlantic Herring (Section) and a subset of its members (Working Group) will review the comments before developing draft comments for submission to the New England Fishery Management Council on behalf of the Section. The Section will review the Working Group's draft comments during their meeting on April 30, 2012.

Before discussing the document itself, AP members commented that they should have discussed Amendment 5 at a daylong meeting, rather than a conference call. Members commented that this document is too complicated and large to be thoroughly reviewed on a conference call. Additionally, there was concern that not commenting on an option could be misconstrued as an endorsement of it; and the call format would not allow them to comment on all options. Finally, members were also concerned about the poor turnout with only 8 of 18 members present for the call.

Following the general discussion of call format and attendance, members reviewed the document as follows. A copy of the Amendment 5 Public Hearing Document was mailed to each AP member prior to the call and the group generally worked from this 83 page document.

### **3.1.1 Regulatory Definitions (Transfer at Sea and Offload)**

The AP supports Option A (No Action), because Option B will complicate the process.

Comments included:

- Unclear as to what the point of this section is. It is supposed to clear up and simplify the process but appears to make it more complicated.
- Ok with language that is being suggested. Agree that permits should match up and vessels should be bound by the most restrictive possession limit. Not 100% sure I fully understand it. Nothing that jumps out as more restrictive than current regulations. If one intent is to minimize the opportunity for catch to be double counted there may be some value in the changes proposed.

### **3.1.2 Administrative/General Provisions**

The AP unanimously supports a combination of 2B (eliminate VMS “power down” provision) and 2C (establish “at sea” dealer permit) of the B options. Comments included:

- An at sea dealer permit would help with accurate reporting as long the at sea dealer is clearly identified as the one who will sell the herring. This is similar to transport truck requirement.
- Option 2B will make the power down provision consistent for all permit holders.
- Beneficial if double counting is eliminated.
- Tuna fishermen should not have to obtain a dealer permit.

### **3.1.3.2 Measures to Address Carrier Vessels**

The AP unanimously supports 3.1.3.2.3 Option 3, dual option for carriers (VMS or LOA).

Comments included:

- Option 3 is best because it allows flexibility.
- Why is the minimum 7 day enrolment period necessary?
- VMS option gives flexibility to switch from carrying to fishing.
- Carriers should not be required to have VMS.
- Do not understand this section well enough to know if carriers should have VMS or not. Makes sense that any boat landings herring should have VMS and the Government should supply them at no cost as they did for the pelagic longline fleet.

### **3.1.3.3 Measures to Address Transfer at Sea**

The AP unanimously supports 3.1.3.3.1 Option 1, no action. Comments included:

- Status quo is preferred because the other options are too restrictive.
- How will this impact tuna fishermen who buy herring at sea for bait.

### **3.1.4 Trip Notification Requirements**

The AP unanimously supports a combination of 3.1.4.2 Option 2 (modify & extend pre-trip notification) and 3.1.4.3 Option 3 (extend pre-landing notification). Comments included:

- D permit holders, on a directed herring trip, should be held to the same notification requirements as other permits in all management areas.
- Table 49, Page 22, indicates that only about 100 D permit holders are landing herring
- If a vessel wants to fish for herring they should notify NMFS to allow them to place an observer on board.
- These notification requirements are not burdensome.

### **3.1.5 Reporting Requirements for Herring Dealers**

Some AP members supports 3.1.5.1 Option 1, no action and one member supported Option 2, 2B (weigh all fish, document for each landing event). Comments included:

- Option 2B is preferred because it includes an allowance for dealers to explain how they estimate the catch by species.
- This option is offensive because it implies that dealers are unsure about the weight of their product.
- It is impossible for all dealers to weigh fish the same way.
- Any requirement to weight all fish should specify that onboard dipping tanks are an acceptable means to weigh fish.
- This section is too vague and more detail would be helpful. We are unsure how this will be implemented.
- The herring industry has been a volumetric fishery and survived using our own baselines.
- A requirement to weigh all fish will lead to more confusion.
- This concept is far from being developed enough to implement. The Council needs to work with industry to flush out the details if they are serious about weighing all fish.
- The document clearly states that the impacts of these measures are unknown so why are they being proposed.

### **3.1.6 Changes to Open Access Permit Provisions for Limited Access Mackerel Vessels in Area 2/3**

The AP unanimously supports Option 2 (increase open access possession limit to 20,000 pounds in Area 2/3 for vessels with federal limited access mackerel permit. Comments included:

- The 20K limit is close to the incidental catch allowance in the mackerel plan (25,000 pounds).
- This will reduce discards of herring in the mackerel fishery.

## **Catch Monitoring At Sea:**

### **3.2.1 Observer Coverage on Limited Access Herring Vessels**

The AP did not specify what their preferred options are. AP members are generally supportive of observer coverage but cannot afford to pay over a thousand dollars per observer. Comments included:

- The industry supports 100% observer coverage in the near future but the current cost is unaffordable. Industry members can pay a maximum of 325.00 per day (rate being paid by H&G fleet on West Coast).
- 100% observer coverage should only be required for a two years and discontinued once sufficient data is collected and reviewed by PDT
- Opposed to designated two-year “sunset” provision. The Council can review and change coverage requirements after sufficient data has been collected.
- There is no scientific need for 100% observer coverage. SBRM was developed to establish scientifically valid adequate coverage levels. The NEFMC Herring PDT has not recommended 100% observer coverage.
- Should require 100% coverage for A & B only but should make a real attempt to get the observer cost down. Compare how observer programs are run elsewhere.
- Do not implement until observer cost becomes affordable.
- 100% coverage would be fine if the cost was lower.
- The waiver form is important because fishermen need to be able to fish even if an observer is not available.
- NMFS should always have observers available if required.
- This is a great issue for conservation partners to help with cost and contribute towards improving monitoring.
- Require 100% coverage but make the government pay for it.

### **3.2.2 Measures to Improve/Maximize Sea Sampling**

The AP is unanimously not opposed to Sub-Options 2A, 2B, 2C, 2D, 2E, and 2F of 3.2.2.2 Option 2. Comments included:

- Captains already comply with these when vessels have observers on board.
- The industry already has an excellent relationship with the observer program and there is no problem that necessitated development of these options.

### **3.2.3 Measures to Address Net Slippage**

The AP was divided on this issue. Six of the call participants support 3.2.3.1 Option 1 (no action); and two members support Sub-Option 4C of 3.2.3.4 Option 4 (Closed Area I provisions with trip termination at 10 events).

Comments from members in support of Option 1, no action, included:

- We are completely opposed to Option 4, because the measures are punitive in nature and not constructive to the ongoing cooperation between captains and observers.
- It is ridiculous that shoreside monitoring is not included but these requirements are.
- We are opposed to CAI provisions. The data does not support a relationship between closed areas and incidental catch in the herring fishery.
- These measures are overkill.
- These requirements are operationally impossible. The hydraulics cannot pull the net over the side rail. Rings and tacks on a zipper line will not come through the block. You cannot purse a net on the deck.
- Slippage is a myth.
- A small volume (around 100 pounds) of operational discards are a reality for trawl and purse seine herring vessels but are more prevalent with purse seine. The way this is defined, all purse seine trips would be considered “slippage events”.
- Fishermen would retain all fish in their nets if it were possible. No one wants to let catch go. You should penalize anyone 100,000 pounds for 100 pounds of operational discards.
- Before implementing these requirements, observers should document each time they cannot see the cod end of net. If it is found to be common, then the problem should be addressed in the future.

Comments from members in support of Sub-Option 4C of 3.2.3.4 Option 4 (Closed Area I provisions with trip termination at 10 events) included:

- Having an independent set of eyes seeing what is in the codend of the net will benefit monitoring and close any loophole where fishermen could conceal undesirable catch.
- All catch should be sampled and an observer cannot sample what they do not have access to.
- The trip termination provides an incentive to minimize slippage.
- There should be a clear definition of what amount constitutes “operational discards” and what amount constitutes “slippage”.
- Opposed to allowing slipped catch affidavits.

### **3.2.4 Maximized Retention Alternative (Experimental Fishery)**

The AP unanimously supports 3.2.4.1 Alternative 1, no action. Comments included:

- It is ridiculous that a 100 year old fishery would become experimental. This will only lead to punitive measures.
- This would be a waste of time and resources to pursue.

*Three AP members (Jenny Bichrest, Patrick Paquette, and Steve Weiner) had schedule conflicts and left the call at noon, three hours after the call began. The following recommendations were made by the remaining call participants.*

### **3.3 Measures to Address River Herring Bycatch**

Due to time constraints, the AP did not discuss details of every Alternative, Option, and Sub-Option in Section 3.3, but preferred to instead state which Option they support with the understanding that they are opposed to the other alternatives. Simply put, AP members unanimously support 3.3.2.2.4 Option 4 (two-phase bycatch avoidance approach SMAST); and are opposed to all other alternatives in Section 3.3. Comments included:

- Move along rules work because they are not punitive and allow the fishery to operate.
- Provisions in the Magnuson-Stevens Act require the fleet minimize bycatch and require the Council and Agency to realize Optimal Yield from the directed herring fishery.
- The move along rule is preferred because it is flexible and removes fishing pressure in the area of concern. The other options in this section are too rigid and cannot be modified if concentrations of river herring occur outside of closed areas.
- The complexity of earlier options would make compliance burdensome and difficult to follow.
- Recent SMAST analysis has shown that the monitoring/avoidance and trigger areas do not overlap areas with the highest concentration of river herring. Implementation of measures in these areas could shift fishing pressure to areas with higher concentrations of river herring and have the opposite effect as intended.
- Catch caps are not feasible at this time. Should not implement them until they can be developed in a scientifically defensible way.
- The SMAST approach will minimize river herring bycatch.

### **3.4 Measures to Address Midwater Trawl Access to Groundfish Closed Areas**

The AP unanimously supports Alternative 2, pre-closed area I Provisions. Members did not elaborate other than to state the alternative that they prefer. It was later clarified that members oppose CAI provisions in general for similar reasons to 3.2.3 above.