

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING MANAGEMENT BOARD**

**The Ocean Place Resort  
Long Branch, New Jersey  
Hybrid Meeting**

**November 7, 2022**

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**ATTENDANCE**

**Board Members**

Megan Ware, ME, proxy for P. Keliher (AA)	Eric Reid, RI, proxy for Sen. Sosnowski (LA)
Steve Train, ME (GA)	Justin Davis, CT (AA)
Cheri Patterson, NH (AA)	Bill Hyatt, CT (GA)
Doug Grout, NH (GA)	Sen. Craig Miner, CT (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	John Maniscalco, NY, proxy for J. Gilmore (AA)
Melanie Griffin, MA, proxy for D. McKiernan (AA)	Joe Cimino, NJ (AA)
Raymond Kane, MA (GA)	Tom Fote, NJ (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Adam Nowalsky, NJ, proxy for Sen. Gopal (LA)
Conor McManus, RI, proxy for J. McNamee (AA)	Rick Bellavance, proxy for T. Nies, NMFS
David Borden, RI (GA)	Emily Gilbert, NMFS, proxy for A. Murphy

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

**Ex-Officio Members**

Renee Zobel, Technical Committee Chair	Delayne Brown, Law Enforcement Representative
Jeff Kaelin, Advisory Panel Chair	

**Staff**

Robert Beal	Madeline Musante	Emilie Franke
Toni Kerns	Tina Berger	Chris Jacobs

**Guests**

Ashley Asci, NOAA	Wes Eakin, NYS DEC	Jeff Nichols, ME DMR
Robert Atwood, NH F&G	Maria Fenton, NOAA	Victoria Oriole
Rob Beal, ME DMR	Marianne Ferguson, NOAA	Nick Popoff, US FWS
Mel Bell, SC (AA)	Angela Forristall, NEFMC	Will Poston, SGA
Jesse Bisette, NC DNR	Jennifer Foss, NOAA	Chad Power
Kurt Blanchard, RI DEM	Jeanne Fuller, Bangor, ME	Craig Pugh, DE
Sarah Bland, NOAA	Kurt Gottschall, CT DEEP	Kathleen Reardon, ME DMR
Colleen Bouffard, CT DEEP	Heidi Henninger, AOLA	Ross Self, SC DNR
Cameron Brinton, GA DNR	Jay Hermsen, NOAA	Nathan Shivers
Michael Brown, ME DMR	Helen Takade-Heumacher, USFWS	Melissa Smith, ME DMR
Jeff Brust, NJ DEP	Harry Hornick, MD DNR	Renee St. Amand, CT DEEP
Josh Carloni, NH F&G	Jesse Hornstein, NYS DEC	Kevin Sullivan, NH F&G
Nicole Caudell, MD DNR	Dierdre Keliher, ME DMR	Mary Beth Tooley, O'Hara Corp
Matt Cieri, ME DMR	Zack Klyver, Bar Harbor, ME	Jesica Waller, ME DMR
Matt Colson, WVII, Bangor, ME	Jared Lamy, NH F&G	Ben Whalley
Heather Corbett, NJ DEP	Danni Logue	Steven Witthuhn, Greenlawn, NY
Cliff Cosgrove, NOAA	Genine McClair, MD DNR	Chris Wright, NOAA
Jamie Cournane, NEFMC	Lorraine Morris, ME DMR	
Jessica Daher, NJ DEP	Brandon Muffley, MAFMC	
Roman Dudus	Daniel Namur, NOAA	

The Atlantic Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Monmouth I Room of the Ocean Place Resort, Long Branch, New Jersey via hybrid meeting, in-person and webinar; Monday, November 7, 2022, and was called to order at 9:00 a.m. by Chair Megan Ware.

### **CALL TO ORDER**

CHAIR MEGAN WARE: Good morning, everyone, my name is Megan; I'm the Chair of the Atlantic Herring Management Board, and we're going to call this meeting to order. Since this is our first meeting of the day, I just wanted to reintroduce Doug Grout, who is the new Governor's Appointee for New Hampshire. He is replacing Ritchie White, who has retired. Welcome to Doug Grout, but also a congratulations to Ritchie on all of his efforts over the years.

### **APPROVAL OF AGENDA**

CHAIR WARE: Our next order of business is Approval of the Agenda. We do have one update under Other Business related to funding for the Portside Sampling Program. Are there any other additions or modifications to the agenda? Seeing none; the agenda is approved by consent.

### **APPROVAL OF PROCEEDINGS**

CHAIR WARE: We'll move on to approval of proceedings from August 2022.

Are there any edits to the proceedings from August 2022? Seeing none; the proceedings are approved by consent. All right, so as Toni mentioned, we are having some technical difficulties with the audio on the webinar. I'll see if there are any public commenters in the room in person, and I'm not seeing any.

We will come back to the public comment for herring at a later portion of the meeting, when we have that sorted out. I thank you for your patience if you are here to make a comment via the webinar today.

### **UPDATE ON THE NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SPECIFICATIONS FOR 2023 TO 2025**

CHAIR WARE: Our next agenda item is an Update on the New England Fishery Management Council's specifications for 2023 to 2025. Emilie is going to provide an update on that process. This is an update only, and I will pass it over to Emilie.

MS. EMILIE FRANKE: Thank you, Chair, and we'll get the presentation up here on the screen in just a moment. At their September meeting the New England Fishery Management Council voted on a Specifications Package for 2023 through 2025. That Specifications Package was based on the most recent stock assessment, which was just completed this year.

Also, based on the Council's Scientific and Statistical Committee's recommendations, consistent with the Atlantic Herring Biomass-Based Control Rule, and also consistent with the Atlantic Herring Rebuilding Plan in Framework Adjustment 9. Overall, the 2023 to 2025 annual catch limits remain pretty low in the grand scheme of things, but they are an increase relative to the most recent fishing years. As far as the timeline, the New England Council voted on this Specifications Package in September, and they will be submitting this package to NOAA Fisheries for review and approval. Then NOAA Fisheries rule to implement these specifications is expected to be published in January or February, and this Atlantic Herring Board can consider action to approve these specifications at the upcoming Winter Meeting in February, 2023.

These next two slides show the specifications selected by the New England Council for 2023 through 2025, all in metric tons here. You can see that the overfishing limit, the acceptable biological catch and the ACL increase over time through those three years, 2023 through 2025. The border transfer specification is still set at 0 metric tons. As a reminder, for the management uncertainty buffer, if the Canadian New Brunswick weir fishery catches less than its associated trigger, then 1,000 metric tons will be subtracted from that uncertainty

buffer, and added to the Area 1A Sub-ACL. This slide now shows the Sub-ACLs for each management area, and also lists what proportion each area receives from the total ACL.

Again, you can see that slight increase from 2023 through 2025. The fixed gear set aside is still set at 30 metric tons, and the research set aside would be set at 0 percent, as it has for the past two years. This slide shows a comparison of the initial 2022 ACLs from this year, as compared to these selected 2023 through 2025 specifications. As you can see, the slight increase relative to 2022, for example this year the Area 1A Sub-ACL was initially just under 1,200 metric tons.

If these specifications are approved, next year that Area 1A Sub-ACL would be just under 3,600 metric tons. Again, for next steps. In January and February, we expect the NOAA Fisheries Rule to be published implementing these specifications, and this Board can consider action to approve those at the Winter Meeting. With that I'm happy to take any questions.

CHAIR WARE: Great, thanks, Emilie, and I'll just note. I believe our next assessment for herring would be 2024, so we'll actually potentially be revisiting the 2025 specifications via that stock assessment. Are there any questions on Emilie's presentation? Yes, Justin Davis.

DR. JUSTIN DAVIS: Something that wasn't in the presentation was the River Herring and Shad Bycatch Caps. My understanding is those were kept status quo, essentially, through this specifications package. When this Board meets to set specifications, is the river herring and shad bycatch cap part of that process, or is that something that is strictly Council only, and we don't have any jurisdiction there?

MS. FRANKE: Thanks for the question. Yes, the River Herring and Shad Catch Caps were kept the same from past years. I looked at the motion approving the specs from last year, and they weren't included in the Commission

motion, so I don't think that is something the Commission typically has to approve. But on the Council side, those were kept the same from previous years.

### **SETTING THE QUOTA PERIODS FOR THE 2023 AREA 1A FISHERY**

CHAIR WARE: Any other questions from the Herring Board? All right, seeing none; we will move on to our next agenda item, which is Setting the Quota Periods for the 2023 Area 1A Fishery. Emilie is going to provide an overview of the quota period system as a bit of a refresher for us. Then this is an action item for the Board today, so we will be looking for a motion.

MS. FRANKE: Thank you, Madam Chair. I'll provide an overview of the Atlantic Herring Quota Period System established by Amendment 3. As Chair stated, the Board action for today is to consider setting the quota periods for the 2023 Area 1A fishery. Per Amendment 3, quota periods shall be determined annually for Area 1A, and the Board can consider distributing the Area 1A Sub-ACL using either a bimonthly, a trimester, or a seasonal quota period to meet the needs of the fishery.

The Board can also decide whether quota from January through May will be allocated to later on in the fishing season, and the Board can specify if underages may be rolled from one period to the next within the same year. Here on the screen, this is from the Amendment, are the different quota period options from Amendment 3.

All of these allocation percentages and options are fixed options, and these options can only be changed through an Addendum. Up top are the bimonthly quota period options. In this case quota would be allocated in two-month periods throughout the year, with options for no landings prior to June 1st. The next option on the bottom left is the trimester quota period option, so there are three quota periods throughout the whole year.

Then finally on the bottom right you have the seasonal quota options, with one option for

landings prior to June 1st, and one for no landings before June 1st. For reference, here are the quota periods approved by the Board in recent years. In 2019, the Board allocated the Area 1A Sub-ACL using the bimonthly quota period option, with no landings prior to June 1st.

Then for the most recent three years, 2020, '21 and '22, the Board has allocated the Area 1A Sub-ACL using the seasonal quota period option, with no landings prior to June 1st. About 73 percent has been allocated for June through September in recent years, and about 27 percent to October through December.

Then in all three years, the Board has allowed underages from one quota period to be rolled into the next quota period. Again, just to wrap up, the Board's action for today is to consider setting these quota periods for Area 1A for 2023. Again, as a reminder, the New England Council's proposed Area 1A Sub-ACL is just under 3,600 metric tons. With that I am happy to take any questions.

CHAIR WARE: Great, any questions for Emilie, before we look for a motion? All right, seeing none, we are looking for a motion today, and we'll see if we have any either in-person or from webinar.

MS. FRANKE: I see a hand from Melanie Griffin on the webinar.

CHAIR WARE: Great, thank you, Melanie. I believe Melanie has sent in a motion via e-mail, and since we're having some difficulties, maybe I will pinch hit for her and read the motion, and we'll see if we get a second. **The motion by Ms. Griffin is Move to allocate the 2023 Area 1A Sub-ACL seasonally with 72.8% available from June through September and 27.2% allocated from October through December. The fishery will close when 92% of the seasonal period's quota has been projected to be harvested and underages from June through September shall be rolled into the October through December period.** Motion by Ms. Griffin. Do we have a

second? Ray Kane, thank you. All right, Ray, you're actually from the same state as Melanie so we need a different second. Eric Reid, thank you. All right, is there any discussion on the motion today? Yes, Dennis Abbott.

MR. DENNIS ABBOTT: Yes, thank you. I'm not particularly opposed to this motion. But one thing that I've noticed with the low quotas is the fact that every year it seems as though we're getting a thousand tons returned from Canada, which ends up in the October to December period, which really causes a shift in those percentages, so to speak. Where if you look at especially this year with the low numbers, that the October through December catch is greater than in the summer.

I don't know if it's good for the summer bait fish, or whether it's bad. I know we've been depending on menhaden, but I just think that we end up with somewhere, you know maybe 40, 45 percent of the catch actually being caught in the final period. I don't know what the affected states, how they feel about that or whether they think we should be looking at that 72/28 percent looking for comments.

CHAIR WARE: Any reaction to Dennis' comment? I will just remind this Board; we actually had a Draft Addendum III that was looking at different changes. I think some of them were the percentages, others were days out measures in that fall/winter period that you've kind of postponed indefinitely, I believe at this point. We did start to have that discussion, but I don't think we have finished that. Any other comments in reaction to Dennis? Steve Train.

MR. STEPHEN TRAIN: I have similar comments to Dennis, not the exact same thing. But unless I'm not seeing this fishery for what I think it is. It's the same boats pretty much regardless of the season, it's just when they're allowed to go. They seem to come in and tie up and then go back out when it opens up, maybe just a little bit of geographic difference.

Knowing that we generally get this rolled in, added on, why do we need to close at 92 percent for

summer, knowing we have a tremendous amount of quota left, if there is? You know we could go 96, 97, 98 percent. It's the same boats, it's just when they catch it. As long as we don't go over the total by the end.

CHAIR WARE: I'll just point out. I think the difference between the summer and the winter seasons is the gear types that are permitted, so it's purse seines in the summer and then purse seines and midwater trawls in the winter. I think I saw a hand, yes, Ray.

MR. RAYMOND W. KANE: We're never really sure of that thousand metric ton that gets transferred from Canada. Recently, history has shown us yes, we get it every year. That's also a Council FMP plan, and I don't know what jurisdiction we would have in changing percentages. But we never know if we're going to get the thousand metric ton from Canada, so you want to give the fishermen access. I don't know how you go about changing percentages right now.

CHAIR WARE: Any other comments on this topic? I will just point out, we did have that Draft Addendum III, so if Board members are interested, that is something that they can go back to, to refresh themselves on some of the conversations we've had, and we can go from there at a later date. Toni.

MS. TONI KERNS: The Board probably doesn't have access to that Addendum at this point, so it's hard for them to do so. But if it is the will of the Board that you want to change these percentages in some way that is different than the options that you have through the FMP, then we would need to direct staff and the PDT to do so, to bring something back to you that is different. But we would want to know what it is that you want them to explore.

MS. FRANKE: I can send around via e-mail after the meeting that previous Draft Addendum III if folks want to take a look at that, and we can perhaps discuss it at the next Board meeting.

CHAIR WARE: All right, so I think that sounds like a good plan moving forward. We do have a motion on the board. We have a motion by Ms. Griffin, a second by Mr. Reid. Is there any opposition to this motion?

MS. FRANKE: No hands on the webinar.

CHAIR WARE: **Okay, seeing none; this motion is approved by unanimous consent.** All right, we're going to move on to our next agenda item today, which is **Considering the Vacant ASMFC seat on the New England Fishery Management Council's Atlantic Herring Committee.** Just as a bit of an introduction on this.

We, the Commission received a seat on the New England Council's Atlantic Herring Committee in 2018, and the seat is now vacant with the retirement of Ritchie White. We need to select a new ASMFC representative to fill that seat on today's Herring Committee. I will be looking for a motion to nominate someone, and Dennis, I see your hand.

**MR. ABBOTT: It's my pleasure to nominate the gentleman from the Commonwealth of Massachusetts, my good friend, Mr. Raymond Kane to be the representative to the New England Council.**

CHAIR WARE: Thank you, Dennis. We'll wait for that motion to be put on the board, and then we will look for a second. All right, so we have a motion on the board. We are looking for a second, and I'm hearing Melanie, you have your hand raised on the webinar, so it will be a second by Ms. Griffin. Great, is there any discussion on the motion today? Yes, Dennis.

MR. ABBOTT: In addition to planning on having Ray Kane. It crosses my mind that sending someone, it's an LGA, it's not going to be a State Director to take this position. It ends up being something that is outside of our normal duties as Commissioners, and I feel that the person that goes there should be remunerated in some way with a stipend for every meeting he goes to.

I don't think that the person that we send to the Council meetings should go there, you know I won't say as a volunteer. But I do think that we should consider some reimbursement for that individual. I think that would only be fair. I bring it up at this point. Maybe I'll have to bring it up at another. But I do think that whosoever it is, deserves to be reimbursed. Because you know there has been more and more discussions amongst our LGAs about volunteering our time, and basically without compensation. I think, especially in this case, where it's beyond the normal duties of being a commissioner going to Council meetings, that it would only be fair, in my opinion. But that is my opinion.

CHAIR WARE: I will pass it over to Bob to see if he has any thoughts on that.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Dennis, thanks for the comments. You used two different words in there. One you said a stipend, then the other you said reimbursement, so I'm not sure if you're talking about reimbursing travel. It sounds like you are actually looking for a stipend above and beyond reimbursement for travel and meals. Okay, so that's what you're looking for?

You're right, the Commission hasn't done that for any positions that attend Council meetings or attend these meetings or anything else, so I think that would be obviously Executive Committee and Policy Board would need to take that up and look at the budget, see what's available. It would be a pretty significant shift to how we do business, starting to reimburse those positions. But it can be talked about at the Executive Committee if someone would want to bring it up.

CHAIR WARE: Great, thank you, Bob. I'll go back to the motion on the floor. **Is there any other discussion on this motion? All right, is there any opposition to the motion? I see no opposition so the motion passes.** Ray, maybe I'll just have you take a moment now to put on the record you are a member of the Advisory

Panel, and so you will be changing your positions of the Council.

MR. KANE: Yes, if elected by this Commission to the Atlantic Sea Herring position on the New England Council. Speaking on behalf of the Commission at the Council meetings, the Herring meetings, the Atlantic Sea Herring Committee meetings, I will resign my seat on the Atlantic Sea Herring AP of the New England fishery Management Council.

CHAIR WARE: Great, thank you, Ray. All right, so I think that concludes that agenda item.

### OTHER BUSINESS

We are moving on to Other Business, so I'll turn it over to Toni, maybe? I'll turn it over to Emilie to just provide an update on the funding for the Portside Sampling Program.

### UPDATE ON THE FUNDING FOR THE PORTSIDE SAMPLING PROGRAM

MS. FRANKE: At the last meeting we had a discussion about the funding for the Atlantic Herring Portside Sampling, ending in at the end of 2023, previously supported by ACCSP funds. I talked with Executive Director Bob Beal. It's likely that ASMFC can provide some funding for the following year, 2024, so just a very short-term solution. We still are looking to the states for some long-term guidance on the Herring Portside Sampling.

CHAIR WARE: Okay, great. It looks like we have a few more years of coverage, still a discussion topic we won't need to have in the future. But I think it's good that we have a little bit of buffer, it looks like.

### ADJOURNMENT

Is there any other, Other Business today? Seeing none; I will ask for a motion to adjourn. Cheri Patterson and a second from Ray Kane. Thank you all.

(Whereupon the meeting adjourned at 9:30 a.m. on Monday, November 7, 2022)