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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
David V.D. Borden, *Chairman* | Paul J. Howard, *Executive Director*

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Joint Herring Committee/Advisory Panel/ASMFC Herring Section

Doubletree Hotel, Portland, ME

June 15, 2004

The Herring Committee met jointly with the Atlantic States Marine Fisheries Commission (ASMFC) Herring Section to: review updated stock and fishery information for the 2003 fishing year; review Herring Plan Development Team (PDT) and ASMFC Technical Committee (TC) recommendations regarding herring specifications for the 2005 fishing year; develop Committee/Section recommendations regarding specifications for the 2005 fishing year; and identify a range of options for Total Allowable Catches (TACs) to be further analyzed by the PDT/TC during the specification process. The ASMFC Herring Section also reviewed and approved the ASMFC Herring FMP Review for 2003 and considered an application from the State of RI for an internal waters processing (IWP) operation to process Atlantic herring.

Meeting Attendance: Lew Flagg, Herring Committee and Section Chair; David Pierce, Erik Anderson, Mark Gibson (for David Borden), John Pappalardo, Dana Rice, Bruce Freeman, and Jim Ruhle, Herring Committee members; Lori Steele, NEFMC Staff, Herring PDT Chair; Matt Cieri, ME DMR, ASMFC Herring TC Chair; Dave Ellenton, Herring Advisory Panel Chair; David Turner, Rich Ruais, Glenn Robbins, Jim Kendall, Al West, Herring Advisory Panel members; Myles Raizen, Sarah Gurtman, NMFS NERO; Megan Gamble, ASMFC; Mary Beth Tooley (ECPA), Richard Allen (ED), Jim O'Malley (ECFF); Peter Moore (American Pelagic Association/NORPEL), Billie Schofield (NORPEL), Doug Hines (Bumblebee/Stinson), Jeff Pike (Bumblebee/Stinson), Jeff Kaelin (Bumblebee/Stinson), Geoff Smith (TOC), Phil Kline (Oceana), Molly Lutcavage (UNH), Shale Rosen (GOMRI), Maggie Raymond, Jim Odlin, Artie Odlin, Peter Baker (CCCHFA, CHOIR), Brettiny Hardy (CCCHFA), James Becker (ME DMR), Jamie MacDonald (NMFS OLE), Molly Lutcavage (UNH), Walter Golet (UNH), and several other interested parties.

ASMFC Section Members in Attendance: Lew Flagg, Section Chair; Pat White; John Nelson; Dennis Abbott; Ritchie White; David Pierce; Vito Calomo; Bill Adler; Mark Gibson, proxy for David Borden; Eric Smith, Vice Chair; Bruce Freeman; Tom Fote; Matt Cieri, TC Chair; David Ellenton, AP Chair; and Jeff Marston, LEC representative.

Peter Moore (NORPEL) presented a letter to the Committee expressing opposition to the continued development of Amendment 1 to the Herring FMP given the uncertainties surrounding the science and the recent stock assessments presented at the TRAC meeting in February 2003. Mr. Flagg noted that the letter would be included in the July 13-15, 2004 Council binder for further consideration by the full Council.

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Review of Updated Stock and Fishery Information

Lori Steele, Herring PDT Chair, presented the updated stock and fishery information for the 2003 fishing year and the PDT/TC recommendations regarding specifications for the 2005 fishing year. In addition to general questions and clarifications, several issues were raised:

- Dr. Pierce expressed concern about the catch of juvenile fish, particularly in the Canadian (New Brunswick) weir fishery. He noted that 20,000 mt of inshore fish assumed to be caught in the NB weir fishery equates to much more in terms of numbers of fish and suggested that this issue be explored further.
- Mr. Freeman asked for clarification regarding the stock mixing ratios and the range of ratios utilized by the PDT/TC in the risk assessment. Dr. Cieri clarified that the absolute degree of mixing between the stock components is uncertain, which is why the risk assessment utilizes a range of scenarios. The degree of mixing also depends on the seasonal and aerial distribution of the fishery.
- Mr. Freeman expressed concern about the potential impacts of reducing the Area 2 TAC on the mackerel fishery and noted that the mackerel fishery is expected to land 50,000 mt or more during 2004, which represents a significant increase in this fishery.
- Mark Gibson stated that he disagreed with some of the PDT/TC conclusions regarding the status of the inshore component of the resource. Based on the information provided by the PDT/TC, he felt that the PDT/TC's conclusions about the inshore component of the resource may be too optimistic and that the information relative to the inshore component is equivocal. He noted that the fall survey appears to be incorrectly smoothed and that the weight-at-age information suggests that any density-dependent growth occurring in the stock has slowed considerably in recent years. He suggested that the Committee/Section proceed cautiously when determining TACs for the management areas.
- Mr. Ruhle expressed concern that information from the acoustic surveys could not be made available at this time. He asked for clarification as to why the inshore acoustic survey data is not considered reliable at this time and why the NMFS offshore acoustic survey data have not been updated for 2003.
- Mr. Rice expressed concern about the catch-per-unit of effort in the fishery, particularly in Area 1A. He believes that fishing effort in Area 1A has increased significantly to catch the same amount of fish. Mr. Anderson agreed.
- Mr. Smith concluded that the survey indices appear to be stable or slightly increasing over time. He also noted that the significant increase in the survey encounter rate (non-zero tows) is very positive for a schooling pelagic species like herring.
- Mr. Nelson noted that the "days out" program may have implications on removals of the inshore component because extending the fishing season in Area 1A affects the removals of inshore fish as mixing ratios change. Postponing the catch in Area 1A until later in the year may increase removals from the inshore component.
- Mr. Kaelin expressed support for the status quo TACs during 2005 and noted that the FMP appears to have worked in terms of reducing the catch of the inshore component of the resource.
- Geoff Smith asked why the PDT/TC recommends setting ABC at 220,000 mt instead of 200,000 mt, consistent with the letter from Patricia Kurkul that suggests that 200,000 mt may

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be the appropriate proxy for MSY. Ms. Steele responded that the PDT recommendation is consistent with the MSY proxy proposed by the Council in Amendment 1 and that the value of optimum yield (OY) may be lower than 200,000 mt when the Council selects the final specifications.

Preliminary Recommendations on Fishery Specifications

The following motions represent **preliminary recommendations** regarding the 2005 fishery specifications and are intended to provide the PDT/TC with guidance to develop additional analyses and related information. **The final votes on the 2005 fishery specifications will occur at the July 12 Committee/Section meeting and the July 13, 2004 New England Council meeting.**

MAIN MOTION 1A. ASMFC SECTION: David Pierce/John Nelson
MAIN MOTION 1B. HERRING COMMITTEE: David Pierce/Jim Ruhle

For the 2005 fishery specifications:

ABC be set at 220,000 mt

DAH be set at 220,000 mt

DAP be set at 216,000 mt

JVPt be set at 0 mt

BT be set at 4,000 mt

TALFF be set at 0 mt

Additional Discussion on the Main Motion 1A/1B: Dr. Pierce clarified that the intent of the motion would be to eliminate fishing for joint venture and internal waters processing operations (JVP + IWP = JVpt) and prohibit foreign fishing in 2005, due to the reduced levels of ABC and OY that are under consideration. Mr. Smith expressed concern about completely eliminating the IWP allocation because there may be an incidental catch of herring in a mackerel IWP operation, should one be authorized in 2005.

MOTION TO AMEND. ASMFC SECTION: Mark Gibson/Eric Smith
MOTION TO AMEND. HERRING COMMITTEE: Mark Gibson/Jim Ruhle

To remove 5,000 mt from DAP and add it to JVpt for the purposes of IWP, in Areas 2 and 3 only

Additional Discussion on the Motion to Amend: Mr. Ruhle doubted strongly that the Mid-Atlantic Council would authorize any JVP or IWP operations for mackerel in 2005. Mr. Freeman reiterated the Mid-Atlantic Council's intent to phase out JVP and IWP operations as shoreside processing capacity in this fishery continues to develop. Mr. Gibson expressed support for the motion and reminded the Committee and Section that JVP and IWP operations provide opportunities for U.S. harvesters. Mr. Calomo and Mr. Kaelin expressed opposition to the motion to amend. Mr. Odlin noted that the JVP and IWP operations may provide opportunities for some displaced groundfish vessels to catch herring, especially those that do not have the ability (capacity, refrigerated saltwater (RSW) tanks, etc.) to bring fish to shore. Mr. O'Malley agreed and felt that it may be too premature to completely eliminate JV and IWP opportunities, especially given the increasing restrictions in other fisheries and the status of the herring resource

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in Areas 2 and 3. Mr. O'Malley suggested that the herring delivered to the IWPs are not caught as bycatch in the directed mackerel fishery; rather there are fishermen that take advantage of the opportunity and directly target herring for the IWP operation. Mr. Kendall also expressed support for this allocation during the 2005 fishing year.

The ASMFC Section Motion to Amend Failed (2/4/0).

The Herring Committee Motion to Amend Failed (1/5/0).

The Main Motion 1A/1B was repeated:

MAIN MOTION 1A. ASMFC SECTION: David Pierce/John Nelson

MAIN MOTION 1B. HERRING COMMITTEE: David Pierce/Jim Ruhle

For the 2005 fishery specifications:

ABC be set at 220,000 mt

DAH be set at 220,000 mt

DAP be set at 216,000 mt

JVPt be set at 0 mt

BT be set at 4,000 mt

TALFF be set at 0 mt

MOTION TO AMEND. ASMFC SECTION: Eric Smith/Mark Gibson

MOTION TO AMEND. HERRING COMMITTEE: Jim Ruhle/Bruce Freeman

That JVPt be set at 3,000 mt for Areas 2 and 3 only, reducing DAP to 213,000 mt

Additional Discussion on the Motion to Amend: None.

The ASMFC Section Motion to Amend Failed (2/4/0).

The Herring Committee Motion to Amend Failed (2/4/0).

The Main Motion 1A/1B was repeated:

MAIN MOTION 1A. ASMFC SECTION: David Pierce/John Nelson

MAIN MOTION 1B. HERRING COMMITTEE: David Pierce/Jim Ruhle

For the 2005 fishery specifications:

ABC be set at 220,000 mt

DAH be set at 220,000 mt

DAP be set at 216,000 mt

JVPt be set at 0 mt

BT be set at 4,000 mt

TALFF be set at 0 mt

Additional Discussion on the Main Motion 1A/1B: None.

The ASMFC Section Main Motion 1A Carried (5/1/0).

The Herring Committee Main Motion 1B Carried (6/1/0).

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The Committee/Section discussed the allocation for U.S. at-sea processing (USAP) during the 2005 fishing year.

MAIN MOTION 2A. ASMFC SECTION: David Pierce/Pat White

MAIN MOTION 2B. HERRING COMMITTEE: David Pierce/Dana Rice

For the 2005 fishery specifications:

USAP allocation be set at 0 mt.

Additional Discussion on the Main Motion 2A/2B: Mr. Smith expressed concern about eliminating this allocation if some of the industry intends to utilize it during 2005. Mr. Calomo expressed support for the motion and equated USAP activities to JV and IWPs. Mr. Rice expressed concern that USAP activities could deprive shoreside facilities and the bait market of supply because it may be more convenient and cost-effective for some vessels to offload to an at-sea processor. Ms. Steele clarified that the PDT/TC recommended setting the USAP allocation at 0 mt for 2005 because this allocation has not been utilized in the past and consequently inflates the estimate of DAP, and the PDT was not made aware of any plans to utilize the USAP allocation in 2005. The PDT, however, did not recommend setting USAP at 0 mt because it does not support domestic at-sea processing; in fact, the PDT's recommendation to eliminate this allocation altogether in Amendment 1 would allow this activity to occur without restriction. It is ultimately the Committee and Council's decision as to whether an allocation should be made for U.S. at-sea processing.

Jim Odlin informed the Committee/Section of plans in the works to bring a U.S. at-sea processing vessel to Area 3 to utilize the USAP allocation and allow some vessels displaced from other fisheries to catch herring and offload to this processing vessel. He noted that the vessels that are likely to participate in this activity do not have the ability to bring large quantities of herring to shoreside facilities and felt that these vessels should not be precluded from fishing for herring, especially because there is room to significantly expand the fishery in Area 3. He and Maggie Raymond speculated that allowing this activity in Area 3 may provide some incentive for boats to fish offshore and may help to reduce effort in the inshore areas. Mr. Gibson agreed that vessels displaced from other fisheries should have this opportunity to participate in the herring fishery, especially if they could not otherwise.

MOTION TO SUBSTITUTE. ASMFC SECTION: Eric Smith/John Nelson

MOTION TO SUBSTITUTE. HERRING COMMITTEE: Jim Ruhle/Erik Anderson

That for 2005, USAP be set at 20,000 mt limited to Area 3 only.

Additional Discussion on the Motion to Substitute: Dr. Pierce expressed concern about allowing USAP operations to occur because there is uncertainty related to the number of vessels that may participate as well as the extent of their participation. He suggested that these vessels may have the ability to fish more continuously because they do not bring fish to shore and that this could result in problems associated with localized depletion on Georges Bank. Mr. Adler expressed opposition to the motion to substitute because of concerns about affecting the supply of herring to the lobster bait market. Mr. Ellenton expressed support for setting USAP at 0 mt in 2005 and felt that more consideration should be given to the potential implications of USAP operations on Georges Bank before this activity is authorized. He noted that once this activity begins, it will be very difficult to stop it.

The ASMFC Section Motion to Substitute Fails for Lack of Majority (3/3/0).

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The Herring Committee Motion to Substitute Failed (2/5/0).

The Main Motion 2A/2B was repeated:

MAIN MOTION 2A. ASMFC SECTION: David Pierce/Pat White

MAIN MOTION 2B. HERRING COMMITTEE: David Pierce/Dana Rice

For the 2005 fishery specifications:

USAP allocation be set at 0 mt.

Additional Discussion on the Main Motion 2A/2B: None.

The ASMFC Section Main Motion 2A Fails for Lack of Majority (3/3/0).

The Herring Committee Main Motion 2B Failed (3/4/0).

MAIN MOTION 3A. ASMFC SECTION: John Nelson/Eric Smith

MAIN MOTION 3B. HERRING COMMITTEE: Jim Ruhle/Mark Gibson

For the 2005 fishery specifications:

USAP allocation be set at 10,000 mt.

Additional Discussion on the Main Motion 3A/3B: Mr. R. White asked if it would still be worthwhile for a USAP vessel to make a significant investment to participate in the operation at this allocation. Mr. Odlin thought that it would not be feasible with only 10,000 mt allocated to the activity. He also reiterated that there appears to be plenty of room for expansion of the fishery in Area 3 under any of the TAC options proposed for 2005.

The ASMFC Section Main Motion 3A Fails for Lack of Majority (3/3/0).

The Herring Committee Main Motion 3B Failed (3/4/0).

No agreement was reached on the USAP allocation for 2005. The Committee and Section will revisit this issue in July after receiving further guidance from the Herring PDT/TC.

Identification of TAC Options for Further Consideration

Mr. Flagg suggested that the Committee/Section recommend 3-4 options for area-specific TACs that can be further analyzed by the PDT/TC.

MAIN MOTION 4A. ASMFC SECTION: Erik Anderson/John Pappalardo

MAIN MOTION 4B. HERRING COMMITTEE: Ritchie White/Pat White

That TAC Option 3 from the May 5 Herring PDT Report be included for further consideration during the specification process.

MOTION TO AMEND. ASMFC SECTION: John Pappalardo/Mark Gibson

MOTION TO AMEND. HERRING COMMITTEE: Ritchie White/Mark Gibson

That TAC Options 3, 4, 6, and 7 from the May 5 Herring PDT Report be included for further analysis during the specification process.

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MOTION TO SUBSTITUTE THE MOTION TO AMEND. ASMFC SECTION: Pat White/David Pierce

MOTION TO SUBSTITUTE THE MOTION TO AMEND. HERRING COMMITTEE: Dana Rice/Mark Gibson

That TAC Options 1, 2, 4, and 7 from the May 5 Herring PDT Report be included for further analysis during the specification process.

Additional Discussion on the Motion to Substitute: Mr. Abbott suggested that the Committee/Section discuss the options more to determine which ones may be more preferable before passing a series of motions.

The Motion to Substitute, the Motion to Amend, and the Main Motion 4A/4B were withdrawn so that the Committee and Section could discuss all of the TAC options in more detail.

The majority of Committee and Section members agreed that TAC Option 2 should be included for further consideration because it represents the status quo (current TACs without the Area 2 reserve). Mr. Moore also expressed support for the status quo TACs, and Mr. Kendall expressed support for a rollover of the 2004 specifications through the 2005 fishing year. Mr. Ruhle noted that the Committee/Section are not limited to the seven TAC options in the PDT Report and that there is room for flexibility in selecting the options. Dr. Cieri stated that because of time and resource constraints, it may only be possible to analyze three options if the Committee/Section identifies a TAC option that is different from any in the PDT Report (because the options in the PDT Report have already received preliminary analysis). Ms. Tooley emphasized the need to compare the TAC options to five-year and ten-year removal rates and noted that these removal rates illustrate the effect of the Herring FMP in reducing removals of the inshore component of the resource. Ms. Steele clarified that in addition to the status quo TACs (Option 2), the no action alternative will be included in the document for consideration. The no action alternative represents taking no action whatsoever in the 2005 specifications and maintaining the current fishery specifications, TACs, and the 50,000 mt reserve in Area 2.

MAIN MOTION 5A. ASMFC SECTION: David Pierce/Eric Smith

MAIN MOTION 5B. HERRING COMMITTEE: David Pierce/Dana Rice

That TAC Options 1, 2, 4, and 7 from the May 5 Herring PDT Report be included for further analysis during the specification process.

Additional Discussion on the Main Motion 5A/5B: Mr. Smith expressed concern about reducing the Area 2 TAC and suggested that some of the options consider a higher TAC in this area. Ms. Tooley noted that while TAC Option 7 was proposed by the East Coast Pelagic Association (ECPA) during the development of Amendment 1 in 2003, her organization may want to re-evaluate their support for that option given the new information that has been incorporated into the risk assessment. She felt that TAC options that fall outside of the range of historical removals should not be considered because they lack scientific justification.

The ASMFC Section Main Motion 5A Carried (5/1/0).

The Herring Committee Main Motion 5B Carried (4/3/0).

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Dr. Pierce emphasized the importance of the mixing ratios and requested that the PDT provide some additional information relative to the mixing ratios considered in the risk assessment. Since five different ratios are included in the risk assessment, Dr. Pierce felt that it is difficult to understand which ratios may be considered more reliable/accurate than others. He asked for additional guidance from the PDT on this issue.

Other Business

Phil Kline from Oceana presented a proposal for hard bycatch caps/quotas for consideration during the 2005 specification process. Mr. Kline stated that Oceana is submitting this proposal for consideration as a starting point for bycatch caps in the herring fishery, to be further refined with additional information collected through the observer program. He also indicated that Oceana would like the Council to re-consider this issue and provide additional analyses in Amendment 1.

Ms. Steele provided the following guidance: (1) the FMP and the regulations do not authorize the Council to establish hard bycatch caps for finfish and marine mammals as part of the specification process at this time; (2) the Council already considered and rejected a similar measure proposed by Oceana in Amendment 1 due to a lack of information to support it at this time (as recommended by the Herring PDT); when the Council rejected bycatch caps in Amendment 1 (March 2004), it voted to add this measure to the list of measures that can be implemented in the future through a framework adjustment to the Herring FMP, and to add it to the list of measures that could be implemented in the future through the specification process; this means that once Amendment 1 is implemented, the Council would be authorized to establish bycatch caps for the herring fishery as part of the specification process; and (3) if Oceana would like this proposal considered further in Amendment 1, then the Council will need to vote to reconsider this measure.

Ms. Tooley provided some follow-up information relative to a minor adjustment to the ECPA proposal in Amendment 1. The Committee agreed that Council staff should work with Ms. Tooley and the ECPA to clarify the language in the proposal.

ASMFC Herring Section Business

FMP Review for 2003

Megan Gamble presented the Fishery Management Plan Review for the 2003 fishing year. The Commission's Atlantic Herring Plan Review Team (PRT) incorporated much of the same 2003 stock and fishery information used in the PDT/TC Report. The FMP Review summarizes the activities in state waters that are specific to the interstate management plan, such as spawning closures, internal water processing, days out of the fishery effort controls, as well as a law enforcement report. The PRT determined all of the states with a declared interest in the Commission's Atlantic herring management plan were in compliance with Amendment 1 and the subsequent addenda.

The PRT recommended no offloading during the days out landing prohibition due to increased landings on the start date of the prohibition, increased effort, the advantage to larger vessels with refrigerated seawater systems, and law enforcement difficulties.

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Motion 6A. ASMFC Section: Pat White/Bruce Freeman

Move to approve the FMP Review for 2003.

Additional Discussion on Motion 6A: None.

Motion 6A Carried Unanimously (6/0/0).

Dr. Pierce suggested the PDT/TC provide a better explanation of the days out implications if the Area 1A TAC is smaller than it has been in previous years. Dr. Cieri explained there will be a days out analysis with the four TAC options in the next PDT/TC report.

Mr. Moore was concerned that with the Section's approval of the report, the Section endorsed the PRT's recommendation. Mr. Moore suggested offloading during days out was critical to some operations due to the distance from the fishing grounds. Ms. Gamble explained that it was only an approval of the document. Days out provisions are already determined for the current fishing year and the 2005 days out provisions will not be determined until early 2005. The Section may reconsider the PRT's recommendation at that time, but it has not made any determination regarding offloading with the previous motion.

The Joint Herring OS Committee/ASMFC Herring Section meeting adjourned at approximately 4:40 p.m..