



New England Fishery Management Council

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Eric Reid, *Chair* | Cate O'Keefe, PhD, *Executive Director*

MEETING SUMMARY

Herring Advisory Panel

Hybrid Meeting in Portsmouth, NH and by Webinar
August 31, 2023

The Herring Advisory Panel met on August 31, 2023 in Portsmouth, NH and via webinar to discuss: (1) Revisit Amendment 8 Inshore Midwater Trawl Closure; (2) Possible 2024 Council Priorities; and (3) Other business, as necessary.

MEETING ATTENDANCE: Meghan Lapp (Chair), Zach Klyver (Vice Chair), John-Paul Bilodeau, Willy Goldsmith, Jaclyn Higgins, Jeff Kaelin, Donald Lyons, David Mussina, Gerry O'Neill, James Ruhle, Dr. Tammy Silva, Mary Beth Tooley (Advisors present); Cheri Patterson (Chair), Rick Bellavance (Vice Chair), Mark Alexander, Dan Farnham (MAFMC), Emily Gilbert (GARFO), Melanie Griffin, Peter Hughes (MAFMC), Raymond Kane (ASMFC), Scott Olszewski, Melissa Smith, Geoff Smith, Peter Whelan (Committee members present); Eric Reid (Council Chair); Michael Pierdinock (Council member); Dr. Jamie Cournane, Emily Bodell, Janice Plante (NEFMC staff); and Maria Fenton, Carrie Nordeen (NMFS GARFO staff). In addition, about 14 members of the public attended.

SUPPORTING DOCUMENTS: (1) Meeting overview memo from Herring Committee Chair; (2a) Herring Advisory Panel Agenda; (2b) Herring Committee Agenda; (3) Presentation, Council Staff; (4) Memo from Herring PDT to Committee re: Preliminary Discussions regarding Revisit Amendment A8 Inshore Midwater Trawl Closure Action; (5a) Herring Advisory Panel, Jun. 14, 2023 Meeting Summary; (5b) Herring Committee, Jun. 22, 2023 Meeting Summary; (5c) Council Motions, Jun. 27-29, 2023; (5d) Herring Advisory Panel, Aug. 31, 2023 Meeting Summary Draft; and (6) Correspondence.

KEY OUTCOMES:

- The Herring Advisory Panel discussed the Amendment 8 inshore midwater trawl closure action and passed two motions: one recommending a name change for the action and one recommending to the Committee that the action proceed as an amendment to provide for better opportunities for public engagement.
- The Advisory Panel also discussed potential 2024 Council priorities for herring and added changing the start of the fishing year to the list of possible priorities for consideration.

The Herring Advisory Panel Chair opened the meeting at 9:08 am. There were no changes to the agenda.

OPENING REMARKS

Dr. Cournane provided a few updates, including an update on progress towards 2023 herring priorities, a reminder of recent river herring and shad motions from the June Council meeting, and an update to the June 9th PDT memo.

AGENDA ITEM #1: REVISIT AMENDMENT 8 INSHORE MIDWATER TRAWL CLOSURE (DR. COURNANE, NEFMC)

Dr. Cournane reviewed information presented in the August 25, 2023 PDT memo, which included: a review of how this action may work to address the existing Herring Fishery Management Plan goals and objectives; a list of existing Herring FMP framework provisions that may be applicable to this action; and a suggested new action title, “an action to minimize user conflicts for Atlantic Herring”, to better align with the problem statement and provide clarity to the public.

Questions and Comments: Herring FMP Goals and Objectives, Framework Provisions Review, Action Name Change

An Advisor felt that Herring FMP objective #4¹ may not be relevant to this action or may have to be modified to justify the action, given the intent of the Council when it was implemented. Council staff noted that an objective could be clarified, but if an objective needed to be added/changed, the action would have to proceed as a framework. An Advisor asked if there was any rationale for choosing one over the other, noting that this action would likely be controversial. There was also some discussion about PDT workload given current and upcoming stock assessments, and Council staff noted that the PDT encouraged the Committee to prioritize their list of priorities for next year. Another Advisor expressed support for pursuing an amendment given the potential impact on groups not in the directed herring fishery but noted that the herring fishery has declined over time. They also asked about inviting Herring PDT members to an AP meeting to describe the forage set-asides in the stock assessments, which Council staff noted could be possible.

An Advisor asked about the language regarding inshore midwater trawl restricted areas in framework provision #3². GARFO staff clarified that they intended to remove the mention of midwater trawl restricted areas from #3, so the item should now read “Closed areas other than spawning closures”. Another Advisor voiced their support for moving the action forward as an amendment given that it could be controversial and to offer ample opportunity for public engagement. There was also a clarification from an Advisor about the river herring and shad language in the problem statement—Council staff noted that this action is just evaluating how the measures may impact river herring and shad rather than designing measures to address river herring and shad.

¹ (4) Provide for the orderly development of the herring fishery in inshore and offshore areas, taking into account the viability of current and historical participants in the fishery.

² (3) Closed areas, including midwater trawl restricted areas, other than spawning closures

1. MOTION: Tooley/O’Neill

That the Herring Advisory Panel recommends that the Herring Committee define in the problem statement what are the herring user groups and what is the conflict.

Discussion on the Motion:

The maker of the motion commented that the Court’s decision regarding Amendment 8 was clear that the analysis in the amendment didn’t support the action taken, so using the same rationale while removing language about localized depletion is not a good path to follow. This motion would clarify what the user conflict is. An Advisor voiced their opposition to the motion, noting that the that user groups are listed in the statement and that defining the conflicts may come from the full analysis. Another Advisor reiterated the need to clearly define the conflict that exists.

Public Comment:

- Greg DiDomenico (Lund’s Fisheries) asked whether there has been any analysis or evidence provided by user groups that speaks to a conflict, noting that the process has yet to bring forward any evidence that herring fishing impacts other types of fishing. Chair Lapp commented that specific conflicts would be identified, then a search for information and subsequent analyses would be undertaken. Council staff referred to questions posed by the PDT in an earlier memo about clearly identifying the user groups and the conflicts between them.

Roll-call Vote

Yes: Bilodeau, Kaelin, O’Neill, Ruhle, Tooley

No: Klyver, Goldsmith, Higgins, Lyons, Mussina, Silva

Abstain: None.

MOTION 1 FAILED 5/6/0.

2. MOTION: Goldsmith/Bilodeau

The Herring Advisory Panel recommends that the Herring Committee change the title for this action from “revisit Amendment 8 Inshore Midwater Trawl Closure” to “an action to minimize user conflicts for Atlantic herring.”

Discussion on the Motion:

The maker of the motion felt that conversations regarding this action continue to center around user conflicts, so it was important to focus on that aspect. There was some additional conversation about defining the user conflicts.

Public Comment: None.

Roll-Call Vote

Yes: Klyver, Bilodeau, Goldsmith, Higgins, Kaelin, Lyons, Mussina, O’Neill, Silva

No: Ruhle

Abstain: Tooley

MOTION 2 CARRIED 9/1/1.

Discussion: Tasking Motions

Industry members on the AP provided some insights regarding herring fishing activity. For purse seining, success depends on when the fish are feeding—generally, the best time to fish is dawn and dusk, since the fish come to the surface at night to feed. There is a lower success rate in the wintertime. Herring behave differently depending on the time of day or year. Another Advisor described the timing of herring sets, which usually occur between around 5 am and 8 or 9 pm. Midwater trawl vessels generally tow twice a day, once in the morning and once in the afternoon, and may get in a third tow in the evening. The Advisor noted that they might not consider tows at 8 or 9 pm “night” fishing. Council staff relayed that there were some caveats to the 6 am-6 pm time frame for distinguishing day and night (e.g., it did not take time of year/light availability into account). An Advisor also described larger herring vessels that used to take part in the fishery and pointed out that competitors in Europe use the same gear with larger boats. An Advisor clarified that NK on the NEFOP data table is “not known”, noting that though technology has advanced, there are still a few fish left in the net when pumping them out, similar to trying to drink the last bit of water from a glass with a straw. The Advisor also mentioned that there was a gear analysis conducted for Habitat Omnibus Amendment 2 that may provide information about habitat impacts of gear.

Another Advisor felt that Committee tasking motion 1 was clear and relevant, and pointed out interactions with demersal species seen in the tables. They noted that the PDT would be putting together analyses to figure out how these interactions impact various fisheries. Council staff explained that the PDT did not have an in-depth discussion about the tables, but provided some brief observations, specifically that there is some haddock (a benthic species) catch noted in the tables, though that is managed through the groundfish and herring plans. There was a question about the 5% bycatch rule, which, Council staff explained, is part of the groundfish plan. If catch for a particular groundfish stock in other fisheries exceeds 5%, the Council could decide to develop management measures to address the catch. Council staff asked about interactions with skates, and an Advisor assumed it would be in the winter months in Southern New England, but the Advisor did not see many interactions with skates.

3. MOTION: Kaelin/Tooley

That the Herring Advisory Panel recommends to the Herring Committee that any future action be considered as an Amendment because of the potential impacts to fisheries outside of the directed Atlantic herring fishery.

Discussion on the Motion:

The maker of the motion felt that the action would likely impact fishermen outside of the directed herring fishery, so the action should move forward as an amendment to provide adequate information about the process to the public. An Advisor asked whether an action has been started, and Council staff clarified that the Council changed priorities to work on an action, so work has started, but the Council has not initiated a framework. While there is no initiation required for an amendment, a notice of intent would have to be posted in the Federal Register.

GARFO staff noted that though there are requirements for public hearings associated with an amendment, the Council could opt to hold public hearings/scoping meetings even if the action moves forward as a framework. Similarly, though the regulations only require two meetings to complete a framework, a framework could take more than two meetings to complete. Another Advisor felt that providing better opportunities for public input was a driving force for the motion and made a motion to substitute.

3a. MOTION TO SUBSTITUTE: Higgins/Goldsmith

To substitute that the Herring Advisory Panel recommends to the Herring Committee that any future action be considered as an Amendment to provide better opportunities for public engagement.

Roll-Call Vote:

Yes: Klyver, Goldsmith, Higgins, Lyons, Mussina, Silva

No: Bilodeau, Kaelin, O’Neill, Ruhle, Tooley

Abstain: None

MOTION 3a CARRIED 6/5/0.

3b. MOTION:

That the Herring Advisory Panel recommends to the Herring Committee that any future action be considered as an Amendment to provide better opportunities for public engagement.

Roll-Call Vote:

Yes: Klyver, Bilodeau, Goldsmith, Higgins, Kaelin, Lyons, O’Neill, Silva, Tooley

No: None

Abstain: Mussina, Ruhle

MOTION 3b CARRIED 9/0/2.

AGENDA ITEM #2: 2024 COUNCIL PRIORITIES (DR. COURNE, NEFMC)

Dr. Cournane reviewed some possible 2024 Council priorities for herring, including required tasks, Council staff participation in stock assessments, and several additional possible priorities (an action to minimize user conflicts for Atlantic Herring; restart FW7 measures to protect spawning adult herring on Georges Bank; review of Industry Funded Monitoring program; and river herring and shad management measures: catch caps or time/area closures).

Discussion

There was some discussion regarding the timing of the management track assessment as well as specifications. While the current herring specifications are in place through 2025, Council staff noted that ideally, the new specifications would incorporate information from the 2024 management track stock assessment and replace the 2025 specifications. An Advisor commented that there are often delays in implementing the specifications, noting that delays can change the

quality of the fish depending on timing of quota availability, which can have market impacts. Council staff relayed that there can be many reasons for delays but that there are some steps that can be taken to reduce the possibility of delays, such as streamlining the specifications action. Another Advisor pointed out the timing of the stock assessments, which can create a time crunch for developing specifications.

An Advisor relayed their support for catch caps and area closures as management measures for river herring, noting that despite conservation efforts in coastal rivers, there have been low returns of river herring, particularly in the Southern New England Area. Another Advisor reiterated the importance of pursuing the action to address user conflicts. Finally, an Advisor suggested adding to the list of possible priorities: changing the start of the fishing year. This could address timing issues with the stock assessments and developing specifications. Throughout discussion, Advisors and staff recognized the time constraints and potential workload for the PDT given the required specifications development, stock assessment participation, and possible additional priorities.

With no other business, the Herring Advisory Panel meeting adjourned at approximately 12:35 p.m.