



## New England Fishery Management Council

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# FINAL MEETING SUMMARY

## Herring Committee

Sheraton Harborside Hotel, Portsmouth, NH

January 14, 2014

The Herring Committee met on January 14, 2014 in Portsmouth, New Hampshire to: begin development of the range of alternatives for Framework 4 to the Atlantic Herring Fishery Management Plan (FMP), which will address disapproved elements of Amendment 5 (dealer weighing requirements and measures to address net slippage); and to discuss and develop recommendations regarding the NMFS-led omnibus Amendment to implement provisions for industry-funded monitoring.

**Meeting Attendance:** Doug Grout (Chairman), Matt McKenzie (Vice Chair), Mark Gibson, Frank Blount, David Pierce, Vincent Balzano, Mary-Beth Tooley, Tom Dempsey, Jeff Kaelin, Peter Kendall, John McMurray, Peter Christopher, Herring Committee members (all Committee members present); Lori Steele (via webinar), Rachel Neild, Rachel Feeney, Chris Kellogg (NEFMC staff); Jason Didden (MAFMC Staff), Carrie Nordeen, Melissa Hooper (NMFS NERO staff); Mitch MacDonald (NOAA General Counsel); Melissa Yuen (ASMFC); Chris Weiner (Herring AP Chairman); Don Swanson, Jennie Bichrest, Dave Ellenton, Herring AP members; Erika Fuller (EarthJustice), Maggie Raymond (AFM), Patrick Paquette (MASBA), Glenn Robbins, Steve Weiner, Glenn Chamberlain (NEFSC), Jenna Rockwell (NEFSC), Jackie O'Dell (NSC), Vito Giacalone (NSC), John-Paul Bilodeau (Ocean Spray), Greg Wells (Pew), and several other interested parties.

**Webinar:** Gib Brogan (Oceana), Brad Schondolheimer (MA DMF), several other interested parties.

### **Presentation: Framework 4 Alternatives**

Ms. Steele was unable to attend the meeting in person due to illness, but she presented the Committee with an overview of the Draft Framework 4 Discussion Document and the options under consideration for specifying dealer weighing requirements and net slippage provisions via webinar. She reviewed the timeline for Framework 4 development; the January 28-30, 2014 Council meeting will serve as the initial Framework 4 meeting. The Council is scheduled to select final measures for Framework 4 at its April 2014 meeting, after which the document will be submitted and implemented as expeditiously as possible. Ms. Steele acknowledged that the disapproved elements of Amendment 5 related to observer coverage and industry-funded monitoring would be addressed through a NMFS-led Omnibus Amendment for all Northeast Region FMPs, also to be discussed by the Herring Committee at this meeting and the New

England Council at its January 28-30, 2014 meeting. She also informed the Committee that the Mid-Atlantic Council is currently developing Framework 9 to the Mackerel, Squid, Butterfish (MSB) FMP to address the disapproved slippage provisions for the mackerel fishery.

### ***Dealer Weighing Provisions/Recommendations***

The Herring Committee discussed issues related to the disapproval of the dealer weighing provisions proposed in Amendment 5 and possible alternatives to consider in Framework 4. Ms. Tooley and Mr. Kaelin expressed support for implementing some standards for weighing fish; they noted that all herring processors currently weigh fish using scales and supported adding this provision to the Framework 4 options, along with some other general standards for determining the weight of containers most often utilized in the fishery. They both expressed concern about Option 2C for the reasons cited in Amendment 5. Ms. Tooley suggested that some of the newer Committee and Advisory Panel members may be able to provide insight regarding how smaller vessels and bottom trawl vessels handle and store Atlantic herring.

#### **1. MOTION: DEMPSEY/McKENZIE**

To include in Framework 4 alternatives that would further develop Amendment 5 Alternatives 2A, 2B, and 2C for accurate and verified catch weights. Additionally, to include development of industry weighing and handling standards to support these alternatives

**Discussion on the Motion:** Dr. McKenzie expressed support for the motion and noted that it provides flexibility to develop the appropriate standards within each option. Mr. Dempsey suggested that the Herring Advisory Panel provide recommendations regarding appropriate standards for weighing the catch, given the current infrastructure in the fishery. Ms. Tooley suggested that the Advisory Panel consider standards for fish totes and possibly truck measurements. Mr. Kaelin expressed support for requiring dealer and trip reports to be submitted within 24 hours. Mr. Gibson expressed support for the motion and agreed that refining the Amendment 5 alternatives would be the most appropriate approach. Several members of the audience commented in support of the motion. Ms. Steele asked the Committee to clarify that the objective of the dealer weighing provisions would be to improve the accuracy of catch information in the herring fishery; the Committee concurred.

**MOTION #1 CARRIED 10-0-1.**

### ***Measures to Address Net Slippage/Recommendations***

The Herring Committee discussed issues related to the disapproval of the slippage provisions and trip termination measures proposed in Amendment 5 and possible alternatives to consider in Framework 4. Ms. Steele provided the Committee with an overview of the management measures that were approved in Amendment 5 to enhance sampling at-sea and address net slippage. She noted that only the consequence measure (thresholds for trip termination) was disapproved and encouraged the Committee to focus on this aspect of the provisions to address net slippage.

**2. MOTION: PIERCE/McKENZIE**

To include an alternative based on Mid-Atlantic Council Alternative 7 in the Framework 4 Discussion Document: to require vessels with limited access herring permits to vacate a statistical area in which any slippage besides the dogfish exemption occurs (for the remainder of a trip). In addition, if any non-exempted slippage occurs, the vessel would have to terminate the trip. Mechanical and safety issues that lead to a slippage event would thus require leaving a statistical area but not require trip termination; *this alternative includes sub-options for "miles away" move along rules as a consequence for slippage events.*

**Discussion on the Motion:** Dr. Pierce expressed support for the original concept of a threshold, or slippage cap, proposed by the Council in Amendment 5, but he acknowledged the concerns expressed by NMFS and felt that the Mid-Atlantic Council's Alternative 7 in Framework 9 would be a reasonable approach in lieu of a threshold/cap. Ms. Steele asked for clarification regarding a non-exempted slippage event, since the measure would prohibit slippage except for under the three exemptions specified (safety, gear, dogfish). Mr. Didden clarified that while a non-exempted slippage event would represent a violation, the proposed alternative includes an additional consequence of trip termination if these events occur. Slipping for a non-exempted reason and not returning to port, therefore, would represent two violations under this alternative.

**2A. MOTION TO AMEND: DEMPSEY/McMURRAY**

Also, to include an alternative based on Mid-Atlantic Council Alternative 6 in the Framework 4 Discussion Document: to require vessels with limited access herring permits to vacate a statistical area in which any slippage occurs (for the remainder of a trip). In addition, if any non-exempted slippage occurs they would have to terminate the trip. Mechanical, dogfish, and safety issues that led to a slippage would thus require leaving a statistical area but not require trip termination; *this alternative includes sub-options for "miles away" move along rules as a consequence for slippage events.*

**Further Discussion on the Motion:** Mr. Christopher expressed some concern about the proposed requirements to leave a statistical area, given the variable size and shape of the statistical areas; he suggested that NMFS Enforcement review the alternatives prior to the selection of final measures. Ms. Tooley expressed concern as to whether any of the alternatives to address net slippage would be consistent with National Standard 10 (safety of human life at sea).

**MOTION 2A TO AMEND CARRIED 6-3-2.**

**MAIN MOTION, AS AMENDED, CARRIED 6-3-2.**

### **3. MOTION: KAELIN/TOOLEY**

To include an alternative based on Mid-Atlantic Council Alternative 2 on p. 15 of the Framework 4 Discussion Document: to require vessels with limited access herring permits to return to port following any non-exempted slippage event.

**Discussion on the Motion:** Ms. Steele expressed some concerns about this alternative and suggested that it may incentivize the use of the safety exemption for slippage events. She asked why a vessel operator would choose to terminate a trip for a non-exempted slippage event, versus claiming a safety issue. Ms. Tooley and Mr. Kaelin noted that Released Catch Affidavits would still be required for all slippage events. Mr. Kaelin stated that all of the alternatives under consideration are problematic in that they may place the observer in the role of an enforcement agent; he felt that this alternative would achieve the primary objective, which is to create an incentive to not dump fish. Mr. Dempsey asked the Committee to consider the Closed Area I (CAI) provisions since these measures appear to be achieving that objective.

### **3A. MOTION TO SUBSTITUTE: DEMPSEY/McMURRAY**

Include an alternative in Framework 4 that would expand existing Closed Area I provisions and consequences as outlined in the Amendment 5 measures for groundfish closed areas (only midwater trawl vessels with a limited access herring permit, no operational discards allowed) throughout the geographic range of the fishery. The alternative would include sub-options that would require vessels to leave the statistical area or management area following the slippage event.

**Further Discussion on the Motion:** There was extensive discussion about the details of the Closed Area I provisions, especially as they relate to allowing or prohibiting operational discards. Mr. Christopher clarified that the CAI provisions require the vessel to leave the area if slippage occurs for any of the three reasons specified, and it prohibits operational discards. Ms. Nordeen added that the CAI provisions apply only to Category A and B midwater trawl vessels, and with the implementation of Amendment 5, these provisions will apply to all limited access midwater trawl vessels fishing in the year-round groundfish closed areas. Mr. Dempsey emphasized the need to adopt a consistent set of rules that apply to the entire fishery and suggested that the Council build from the effectiveness of the Closed Area I provisions. Ms. Tooley noted that the provisions that would require vessels to leave a statistical area or management area would not be feasible for purse seine vessels (which fish only in Area 1A); Mr. Dempsey clarified that the alternative would extend the CAI provisions as they are currently written, i.e., only for limited access midwater trawl vessels and including a prohibition on operational discards. It was further clarified that in Framework 4, this alternative would apply only to midwater trawl vessels (not purse seine or bottom trawl vessels).

**MOTION 3A TO SUBSTITUTE CARRIED 5-4-2.**

**MAIN MOTION 3A, AS SUBSTITUTED, CARRIED 5-4-2.**

### ***Omnibus Industry-Funded Monitoring Amendment (NERO)***

Melissa Hooper from NERO presented an overview of the omnibus amendment to establish provisions for industry-funded monitoring across all FMPs. This amendment will also include observer coverage targets for the Atlantic herring and mackerel fisheries. The draft alternatives were developed by the Industry-Funded Monitoring Fishery Management Action Team (FMAT), led by NMFS.

Some Herring Committee members asked clarifying questions related to splitting costs between industry and government, the proposed prioritization process, and the notion of “pilot coverage,” which is loosely defined as the minimum level of coverage to provide sufficient information. Dr. Pierce expressed concern about this, and Ms. Tooley suggested that the FMAT discuss this issue further. Ms. Tooley also asked whether the omnibus amendment would modify provisions for existing industry-funded programs like the one in the scallop fishery. Ms. Hooper stated that it is not the intent to change existing programs and agreed to clarify the relationship between this amendment and the existing scallop and groundfish programs further for the January Council meeting. Mr. Dempsey noted that based on the proposed cost split, the industry share looks like it will be nowhere near the target \$325 that the Council had hoped for. Ms. Hooper stated that while the omnibus alternatives relate to the allocation of available federal resources, NMFS is concurrently developing an administrative mechanism to utilize a third party to offset some of the industry costs if/when additional federal funds may be available. Dr. Pierce questioned whether NEMAP funds may be utilized in the future to help offset some industry costs. Mr. Stockwell expressed some concerns about the proposed prioritization process and asked whether the FMAT would be providing more information on the items listed in the document for additional work. Ms. Hooper responded that the additional FMAT work would not occur prior to the January 2014 Council meeting.

#### **4. MOTION: PIERCE/KAELIN**

To recommend herring monitoring alternatives H1, H2, and H4 for further consideration in the omnibus amendment.

**Discussion on the Motion:** Dr. Pierce expressed opposition to the alternatives that would not grant waivers in the event that an observer cannot be provided (H3 and H5). Mr. Kendall and several other Committee members felt that it may be too premature to eliminate alternatives from further consideration. Mr. Dempsey expressed opposition to the motion and noted that the Council’s intent to require 100% observer coverage on Category A and B herring vessels was expressed clearly in Amendment 5.

#### **4A. MOTION TO SUBSTITUTE: DEMPSEY/KENDALL**

To recommend all five herring monitoring alternatives for further consideration in the omnibus amendment.

**Further Discussion on the Motion:** Ms. Tooley expressed some frustration with the position that NMFS is now taking with respect to this amendment; Mr. Dempsey shared that frustration and again expressed support for maintaining the full range of alternatives for further consideration. Following the vote, Mr. Kaelin stated that he generally preferred Alternative 2B over 2C for prioritization under the omnibus industry-funded monitoring amendment, as Alternative 2B proposes that the prioritization process be led by the Agency; he felt that this was the best approach to ensure that decisions would be based more on science and less on politics.

**MOTION 4A TO SUBSTITUTE CARRIED 7-3-1.**

**MAIN MOTION 4A, AS SUBSTITUTED, CARRIED 7-3-1.**

*Other Business*

The Herring Committee agreed to further discuss the omnibus vessel baseline amendment at a future meeting, if necessary.

The Herring Committee meeting adjourned at approximately 4:30 p.m..