Atlantic States Marine Fisheries Commission

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MEMORANDUM

TO: Atlantic Menhaden Management Board

FROM: Atlantic Menhaden Advisory Panel

DATE: October 30, 2017

SUBJECT: Recommendations Regarding Draft Amendment 3 and 2018 Specifications

The Advisory Panel (AP) met in-person on October 26, 2017 to formulate comments on Draft Amendment 3 and provide recommendations on the 2018 fishery specifications. Panel members in attendance represented commercial harvesters and processors, recreational anglers, and conservation coalition members. The following is a summary of the meeting and the discussion had by the AP members. The AP did discuss preferred management alternatives in the document and, given a consensus was not reached on many issues, all viewpoints are presented.

AP Attendance

Jennie Bichrest (ME)
Bob Hannah (MA)
Dave Monti (RI)
Meghan Lapp (RI)
Jeff Kaelin (NJ, Chair)
Leonard Voss (DE)
David Sikorski (MD)
Jeff Deem (VA)
James Kellum (VA)
Peter Himchak (VA)
Scott Williams (NC)
Ken Hinman (Non-trad)

Draft Amendment 3 – Reference Points

6 AP members supported Option B (continue to use single-species reference points while the BERP develops menhaden-specific ERPs).

- One AP member commented that he has confidence in the BERP to develop menhaden-specific ERPs and stated that the Board is already being precautionary in its management of menhaden. He noted that many of the federal councils have a risk policy which prescribes a 50% chance of exceeding the OFL (akin to the Commission's threshold); however, the Board continues to set TACs well below the target. He asked how much more precautionary the Board can be and commented that 200,000 mt is under-fishing. He also highlighted concerns noted by the BERP regarding generalized rules for managing forage fish and commented that the other reference point options do not represent the best available science. In contrast, the models being developed by the BERP are the type of models which were recommended by the Center for Independent Experts during the 2015 Benchmark Stock Assessment (i.e. models of intermediate complexity).
- Another AP member commented that Option B continues to support the industry and expressed concern that there is not a cap on the effort that is used in the menhaden fishery. He stated that the goal-posts by which we manage menhaden keep getting moved and asked at what point does industry get shut out. He commented that the adoption of Option B does not mean that the Board has to raise the TAC and noted that the industry has done a great job of sticking with the current reference points. He also

commented that the increase in menhaden abundance in New England is the result of a shift in the species geographic distribution and not the 2012 TAC.

- One AP member stated that he didn't want anyone to be put out of business and supported Option B with the caveat that the TAC remain at 200,000 mt. He commented that under the current TAC and reference points, businesses are doing ok and no one is getting hurt. He did support continued work on menhaden-specific ERPs and commented that ERPs should be considered when we have more confidence in the science.
- Another AP member commented that the Board has been fishing below the F-target for 15 years and, looking at historic menhaden harvest, we are fishing at levels well below what we have seen in the past. This AP member also commented that given each marine ecosystem is slightly different, generalized rules for managing forage fish do not work for all species. Many of the reasons why generalized rules are not appropriate for menhaden were identified in the Hilborn paper, including the lack of a stock-recruit relationship and fishery selectivity. This AP member commented that the industry needs stability and that is not achieved by implementing interim reference points today and then switching to new reference points in two years.
- Another AP member supported Option B and commented that industry took a huge cut due to a flawed model. This AP member stated that people comment about the rebounding of menhaden populations, but questioned if there was a time when menhaden weren't around.
- A final AP member commented that Option B comes close to satisfying the needs of the bait industry. He stated that all Amendment 2 did was create a shortage of bait and increase costs for fishermen. He commented that predator populations will continue to increase and their requirements will take precedent over the fishing industry. He commented that, of all ASMFC managed species, Atlantic menhaden is doing the best so we should not alter our course.

4 AP members supported <u>Option E</u> (interim use of the 75% target/40% threshold while the BERP develops menhaden-specific ERPs).

- One AP member stated that discussions of the current TAC relative to where the Board could be are not appropriate because we need to think about menhaden as a forage species. He commented that the generalized rules for forage fish (Options C, D, and E) are more appropriate for menhaden since they require the Board to be more conservative in the TAC. He stated that under Option E, the Board can move to implement ERPs now. He expressed concern about the timeline of the BERP's work and the ability to produce menhaden-specific ERPs by 2019, noting the need for Board guidance on goals and trade-offs, and the potential for a management strategy evaluation.
- Another AP member commented that it is important to have ERPs now and that the implementation of ERPs was one of the reasons the Amendment was started. This AP member discussed an experience a few weeks ago in which he saw an osprey catch a menhaden out of the water. He commented that increased menhaden abundance in his geographic region made this experience possible and it is important to leave fish in the water for ecological purposes.
- A final AP member commented that, through reference points, the Board is deciding what guidance to use for management. He commented that the guidance coming from the current single-species reference points is not acceptable and we need to recognize the ecological role of menhaden, as well as secondary users of the resource. He noted that before 2012, there was a problem with menhaden abundance but since that time the stock has improved. While it is unclear if those two actions are completely related (there could be environmental factors at play), it is important to err on the side of

caution and control catch. He commented that Option E allows the Board to fulfill the needs of the bait states while keeping the stock moving in the right direction. He also noted that Amendment 3 does not prescribe how quickly the Board needs to get to the F-target in Option E so there is some flexibility for the fishery managers. He hoped that with continued increases in stock abundance, the Board could phase-in management to the 75% target.

One AP member did not vote for a specific reference point option but did comment that he believed the increase in menhaden abundance over the last couple of years is a result of good recruitment from favorable environmental factors and not the implementation of a TAC in 2013. He noted that he has seen osprey and eagles eating menhaden for years.

2018 Total Allowable Catch

6 AP members spoke in favor of increasing the TAC.

- Two AP members recommended a 40% increase in the TAC to 280,000 mt. One individual commented that as a result of the 2012 reduction, his state lost access to 60% of the resource. Now, a fishery which used to last to November, ends early July. He also stated that the projections use a natural mortality vector that is robust.
- Another AP member recommended increasing the TAC to 220,000 mt. He commented that to offset bad years in a fishery, you have to have good years. He stated that the 200,000 mt TAC squashes the industry by having all years capped to a harvest level. At 220,000 mt, he commented that everyone is made whole.
- One AP member recommended a TAC of 240,000 mt. He commented that a TAC of 212,500 mt makes the fishery whole again and the amount between 212,500 mt and 240,000 mt can be used to help the bait fisheries.
- Another AP member commented that a 25% increase in the TAC would be a huge help to industry. She noted that this level of TAC is not going to hurt the stock, especially when comparing landings to what they were historically.
- A final AP member stated that based on the stock size, the TAC should be higher.

2 AP members did not support a change in the TAC (i.e. maintain at 200,000 mt)

- One AP member commented that whatever reference points are adopted, the TAC should stay at 200,000 mt. Specifically, the TAC should not increase under Options A and B, and the TAC does not need to decrease under Option E. He noted that the Board does not have to achieve the F-target in Option E right away and the stock projection associated with Option E (147,200 mt) shows the Board immediately achieving the target in 2018.
- Another AP member recommended keeping the TAC at 200,000 mt. He expressed concern that increases in the TAC could negate all the progress that has been made in stock abundance since 2012. He hoped that keeping the TAC at 200,000 mt and implementing ERPs now could be a win-win for everyone involved.

Several AP members requested additional projection runs for the reference point options. In particular, one AP member asked for a projection which shows a 50% chance of exceeding the F-threshold since this would provide a helpful comparison to federal fisheries management.

The AP did make a series of motions regarding the TAC. No motions passed but the record of motions is shown below. Several AP members did not support the use of motions, stating that it devalues the minority opinion and furthers divides in an AP that already does not reach consensus. The AP Chair commented that, per Roberts Rules of Order, it is fine for AP members to make motions and it is a customary practice in the NEFMC Herring AP. He encouraged any AP member to make a motion on any issue.

1. Move to recommend 220,000 mt TAC. Motion by Mr. Kellum, seconded by Ms. Bichrest.
2. Motion to substitute a 240,000 mt. TAC. Motion by Mr. Himchak, seconded by Mr. Voss. *Motion fails (5,6,0,0)*
3. Main Motion: Move to recommend a 220,000 mt TAC.
4. Move to substitute a 200,000 mt TAC. Motion by Mr. Monti, seconded by Mr. Sikorski. *Motion fails (4,7,0,0)*
5. Main Motion: Move to recommend a 220,000 mt TAC. [At this time the maker of the motion and seconder clarified that for quota above 212,500 mt, 70% will be allocated to the bait sector, and 30% allocated to the reduction sector. Peter Himchak also went on record that he is reluctantly voting in favor of the motion but he supports a 240,000 mt TAC and is not in favor of the AP making motions]. *Motion fails (5,5,1abs,0)*

Draft Amendment 3: Quota Allocation and Timeframes

2 AP members supported a fixed minimum approach (Option C)

- One AP member supported a 2% fixed minimum for each state, commenting that those states who don't want the quota can give it back. She also recommended that any unused quota on November 1st be given to the other states. She stated that the current allocation method prevents many states from having a fishery, including states which have invested in fishery infrastructure. She also noted that with a different allocation timeframe, her state could have ended up with 7% of the TAC, instead of less than 1%.
- Another AP member commented that he is advocating for more fish for his state because there is an abundance of fish in the water. He commented that as the tide rises, everyone will benefit.
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3 AP members did not support a fixed minimum approach

- One AP member commented that the fixed minimum approach moves the Commission away from a history based allocation. He stated that this method does not recognize states which have made an investment in the fishery.
- Another AP member commented that there are clear losers with the fixed minimum approach under the current TAC, particularly VA and NJ.
- One AP member commented that he wants to make the New England states fishery whole, but not at the expense of other states. He recommended solving this problem by increasing the TAC.

2 AP members supported an allocation method based on the TAC (Option F)

- One AP member commented that this option makes states whole again, and then, a greater percentage can be allocated to the bait sector.
- Another AP member supported Option F and recommended that for any TAC above 212,500 mt, the Board use the 2012-2016 timeframe to help the New England bait fisheries. He noted the Board should still use the 2009-2011 timeframe for TAC below 212,500 mt.

One AP member supported the 70/30 split between the reduction and bait sectors (Option E, sub-option B)

- One AP member commented that everyone on the east coast is home to the menhaden resource and all states have joined the Commission's compact. As a result, everyone should get a share of the resource. He recommended the 70/30 split between the reduction and bait sectors since this would give the bait fisheries a bit more without requiring the TAC to be increased.

3 AP members did not support the 70/30 split

- One AP member commented that the 70/30 split is arbitrary.
- Another AP member commented that it is contrary to the compact to not base allocation on historic landings.
- Another AP member did not support this option because you cannot transfer quota between the bait and reduction sectors.

2 AP members supported the 2009-2011 timeframe (Option A)

- One AP member commented that Virginia should not have to apologize for having 85% of the quota. He noted that no one asks why Maine harvests 85% of lobsters. He commented that if the Board choses a timeframe that includes 1985, the data will be skewed. In addition, the 2012-2016 timeframe primarily includes years under the TAC. As a result, he recommended the Board stick with the 2009-2011 timeframe.

One AP member supported an increase in the quota for New England states and commented that these states should not be prohibited from having a quota just because they didn't have any fish in 2009-2011. She noted that the New England states have helped support the mid-Atlantic bait fisheries through the purchase of bait for the lobster fishery.

2 AP members commented that the discussion on allocation method and timeframe really depends on the reference points and the TAC; the decisions are intertwined.

2 AP members highlighted the need for stability in the TAC so that businesses can plan accordingly.

One AP member commented that, under the regional fleet capacity option, trawls should not be counted in the small-scale fleet.

Draft Amendment 3 – Quota Transfers and Rollovers

4 AP members supported a combination of Option B (Quota transfers with accountability rules) and Option C (quota reconciliation) for quota transfers.

- One AP member commented that he supports adding in accountability measures to the quota reconciliation process to prevent a state from continually exceeding its quota.

Of those AP members who spoke on the issue, 6 supported quota rollovers but in differing amounts.

- Two AP members supported Option D (50% rollover of unused quota).
- Three AP members supported a 5% or 10% quota rollover (Options B and C), but not higher than 10%. One AP member commented that that 10% quota rollovers are commonly used in federal fisheries management. Another AP member noted that there can be extenuating circumstances, such as weather, which make a small quota rollover reasonable.
- One AP member supported a quota rollover of 10% or higher.

Draft Amendment 3 – Incidental Catch and Small-Scale Fisheries

4 AP members supported Option F (all catch counted towards the TAC)

- One AP member expressed concern that catch under the 6,000 pound trip limit is not counted towards state quotas. He commented that all catch should be counted towards the TAC.
- Another AP member commented that he supported the 6,000 pound trip limit in order to bridge the gap between Amendment 2 and Amendment 3, but it is not fair to have catch not count towards a quota.

One AP member did not support Option F, commenting that this option takes away fishing time from the gill-netters and other bait industries.

One AP member commented that the current bycatch allowance is a loophole which people are using.

One AP member commented that trawls should not be counted as a non-directed gear under this provision in Draft Amendment 3.

Another AP member recommended Draft Amendment 3 include definitions of the gear types, as some people may consider a small purse seine a 'bait net'. Moreover, she asked for clarification on whether purse seines can harvest under the 6,000 pound trip limit. This AP member also commented that 6,000 pounds is not a small amount of fish.

Draft Amendment 3 – Episodic Events Set Aside

3 AP members supported the continuation of the episodic events set aside (Options A or B).

- One AP member commented that, if there is no re-allocation of quota to the New England states, then New England needs this program.
- Another AP member recommended that the program remain in place no matter what happens with allocation, but commented that the set aside should be increased to 3% if the New England states don't get more quota; if the New England states do get more quota, then the set aside can remain at 1%.
- A final AP member commented that even at 8 million pounds, some of the New England states, such as Maine, can harvest that in 66 days with just one vessel (based on a 120,000 trip limit). As a result, the episodic events program is needed. She noted that in previous fish kills, people have had to leave their homes and the entire bottom habitat died off.

3 AP members did not support the continuation of the episodic events program (Option C)

- One AP member commented that the New England states are no longer having episodic events. He commented that the way to solve this problem is by raising the TAC.
- Another AP member commented that if allocation Option F passes, he hopes that the episodic events set aside would not be needed. He commented that he supported the episodic events program in Amendment 2 but it has just created another fishery.
- A final AP member commented that the other states have their quota and that is it.

Draft Amendment 3 – Chesapeake Bay Reduction Fishery Cap

2 AP members supported status quo (Option A, sub-option A)

- One AP member commented that studies have shown that the possibility for localized depletion in the Bay is small given the mobility of fish.

3 AP members supported reducing the Cap to 51,000 mt with no rollovers (Option B, sub-Option B)

- One AP member stated that Option B reflects recent landings in the Chesapeake Bay. He expressed concerns about the change in ownership of Omega Protein, given important forage and bait are being taking away by an international company. He also commented that the MD portion of the Bay is cut off from the menhaden resource and local fishermen believe there is a resident stock of menhaden in the Bay. Finally, he noted a resurgence of wasting disease in the strippers due to malnutrition.
- Another AP member commented that while studies on localized depletion were not conclusive, they could also not determine that it wasn't happening. He highlighted the

need to protect the stock and that Option B really represents status quo in terms of harvest. He also expressed concerns in the change of ownership of Omega, commenting that an international company may not have a vested interest in the Chesapeake Bay.

- A final AP member expressed concern that most of the striped bass spawning occurs in the Chesapeake Bay.

One AP member did not support a Chesapeake Bay Reduction Cap (Option C)

- One AP member commented that VA purse seiners can't go into 70% of the Chesapeake Bay including the MD portion of the Bay and all the rivers. He asked how much sanctuary is needed in the Bay. He commented that since there is a coastwide cap, there should be no Bay Cap.

Other Comments

The AP had three recommendations to the Menhaden Board, outside of specific recommendations regarding Draft Amendment 3 and the 2018 TAC.

- The AP recommended that the group be better utilized to provide information to the Board on annual changes and trends in the fishery. The AP proposed that their comments be included in the Commission's FMP Review process, similar to the Fishery Performance Reports that the Mid-Atlantic Council completes annually.
- The AP expressed concern that fishermen, who are harvesting menhaden under the 6,000 pound trip limit, are selling the menhaden from their bunt (portion of seine still in the water after it has been pursed) and not reporting landings. The AP recommends greater enforcement at the state level regarding this bycatch limit.
- The AP requests that, in the future, the TC complete multi-year projections (2-3 years) which enable the Board to set multi-year TACs. This stability would help businesses plan accordingly. Several AP members noted that a menhaden benchmark stock assessment or update occurs every two years so a 2 year TAC may be appropriate.