

# Atlantic States Marine Fisheries Commission

## Atlantic Herring Section

*October 16, 2017*

*4:00-5:00 p.m.*

*Norfolk, Virginia*

## Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*R. White*) 4:00 p.m.
2. Board Consent 4:00 p.m.
  - Approval of Agenda
  - Approval of Proceedings from May 2017
3. Public Comment 4:05 p.m.
4. Set 2018 Specifications for Area 1A **Final Action** (*T. Kerns*) 4:15 p.m.
5. Discuss Role of Section in Research Set Aside Process (*R. White*) 4:25 p.m.
6. Discuss New England Fishery Management Council Participation in ASMFC Herring Management (*T. Kerns*) **Possible Action** 4:40 p.m.
7. Other Business/Adjourn 5:00 p.m.

The meeting will be held at the Waterside Marriot Hotel, 235 East Main Street, Norfolk, Virginia; 757.627.4200

*Vision: Sustainably Managing Atlantic Coastal Fisheries*

# MEETING OVERVIEW

**Atlantic Herring Section Meeting  
 October 16, 2017  
 4:00-5:00 p.m.  
 Norfolk, Virginia**

Chair: Ritchie White (NH) <i>Assumed Chairmanship 2/16</i>	Technical Committee Chair: Renee Zobel (NH)	Law Enforcement Committee Michael Eastman
Vice Chair: Mark Gibson	Advisory Panel Chair: Jeff Kaelin	Previous Section Meeting: May 8, 2017
Voting Members: ME, NH, MA, RI, CT, NY, NJ (7 votes)		

**2. Section Consent**

- Approval of Agenda
- Approval of Proceedings from May 2017

**3. Public Comment** – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Section Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Section Chair may allow limited opportunity for comment. The Section Chair has the discretion to limit the number of speakers and/or the length of each comment.

<b>4. Set 2017 Area 1A Sub-ACL Specifications (4:15 – 4:25 p.m.) Final Action</b>
<b>Background</b> <ul style="list-style-type: none"> <li>• At the 2015 Annual Meeting, the Section approved the Area 1A sub-ACL as part of the 2016-2018 Atlantic herring specifications. The Area 1A sub-ACL of 30,300 metric tons (mt) represents 28.9% of the stockwide ACL (104,800 mt).</li> <li>• Since 2009, the Section has split the Area 1A sub-ACL into trimesters, where 0% is allocated from January 1-May 31, 72.8% is allocated from June 1 – September 30 and 27.2% is allocated from October 1- December 31.</li> </ul>
<b>Board Actions for Consideration at this Meeting</b> <ul style="list-style-type: none"> <li>• Set the seasonal splitting of the Area 1A sub-ACL, quota rollovers and sub-ACL trigger.</li> </ul>

## **5. Discuss RSA Process and Role of Section (4:25-4:40 p.m.)**

### **Background**

- Research Set-Aside (RSA) programs are unique Federal grant programs established through Greater Atlantic Region fishery management plans (FMPs) that promote collaboration between fishermen and scientists to address high priority research issues. RSA programs support applied research projects that are intended to support management decisions, and to refine and improve stock assessments. Through each respective RSA program, pounds or days-at-sea are awarded through a competitive grant process to fund the research.
- Responsibility for the RSA programs is a joint effort between NOAA Fisheries and the Councils. NOAA Fisheries implements the RSA Programs, administering the proposal review and selection process, making sure that the research is technically sound and aligns with Council research priorities, oversees regulatory and vessel permitting needs, and monitors RSA harvest activities.
- Council members and staff provide critical support for the RSA programs. In addition to setting aside RSA quota and days-at-sea, the Councils develop research priorities, provide management expertise in reviewing proposals, and consider the research results to support their fishery management decisions.  
[https://www.nefsc.noaa.gov/coopresearch/rsa\\_faq.html](https://www.nefsc.noaa.gov/coopresearch/rsa_faq.html)

### **Presentations**

- **T. Kerns will present an overview of the RSA Process**

## **6. Discuss New England Fishery Management Council Participation in Atlantic Herring Management (4:40-5:00 p.m.) Possible Action**

### **Background**

- The NEFMC requested to participate on the Atlantic Herring Section.
- The Herring FMP is a complimentary FMP with the NEFMC.
- The Charter, as it is written, does not allow for Council participation by invitation on Sections. This is only a provision for Boards.
- In August the Policy Board requested a recommendation from the Section on how to involve NEFMC in Herring Management.

### **Presentations**

- T. Kerns will present an overview of options to include the NEFMC in Herring Management

### **Board actions for consideration at this meeting**

- Make a recommendation to the ISFMP Policy Board on how to include the NEFMC in ASMFC Herring Management.

## **7. Other Business/Adjourn**

**DRAFT PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING SECTION**

**The Westin Alexandria  
Alexandria, Virginia  
May 8, 2017**

**These minutes are draft and subject to approval by the Atlantic Herring Section  
The Section will review the minutes during its next meeting**

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**Call to Order, Chairman G. Ritchie White .....ERROR! BOOKMARK NOT DEFINED.**

**Approval of Agenda .....ERROR! BOOKMARK NOT DEFINED.**

**Approval of Proceedings, January 2017 .....ERROR! BOOKMARK NOT DEFINED.**

**Public Comment.....ERROR! BOOKMARK NOT DEFINED.**

**Consider Addendum I for Final Approval.....ERROR! BOOKMARK NOT DEFINED.**

**Review Options .....ERROR! BOOKMARK NOT DEFINED.**

**Advisory Panel Report .....ERROR! BOOKMARK NOT DEFINED.**

**Law Enforcement Committee Report .....ERROR! BOOKMARK NOT DEFINED.**

**Consider Final Approval of Addendum I .....ERROR! BOOKMARK NOT DEFINED.**

**Review of the Scoping Comments on the Tiered Weekly Landing .....ERROR! BOOKMARK NOT DEFINED.**

**Discussion of the 2016 Spawning Closure.....ERROR! BOOKMARK NOT DEFINED.**

**Consider Approval of 2017 Fishery Management Plan Review and State Compliance .....ERROR!  
BOOKMARK NOT DEFINED.**

**Review and Populate the Atlantic Herring Advisory Panel .....ERROR! BOOKMARK NOT DEFINED.**

**Other Business..... 21**

**Adjournment ..... 22**

## INDEX OF MOTIONS

1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of January 2017** by Consent (Page 1).
3. **Main Motion**  
**Move that the Herring Section approves the following measures for Addendum I (Page 9):**
  - 3.1.1 Harvester Reporting Requirements**  
**Option B – Implement State landings Report as an alternative in the FMP toolbox in the event NMFS rescinds VMS access to the states**
  - 3.1.2 Prohibit Landings of Herring Caught in Area 1A During a Day Out of the Fishery**  
**Option C: Days out restrictions for vessels with a Category A permit**
  - 3.1.3 Weekly Landing Limit Per Vessel (Pounds)**  
**Option B: Weekly Harvester Landing Limit for Vessels with a Category A Permit. In 2017 vessels must opt into Area 1A by the May 23<sup>rd</sup> Days Out meeting in Portsmouth.**
  - 3.1.4 Landing Restriction on Transfers At-Sea with a reporting and permitting exception to states that have no carrier landings**  
**Options B and C: The Section members from Maine, New Hampshire, and Massachusetts will have a choice of both alternative options at the annual Days Out Meetings: Option B - No Herring Carrier Vessels or transfer at sea and Option C - Herring Carrier Vessels are Limited to Receiving At-Sea Transfers from One Harvester Vessel Per Week and Landing Once Per 24-Hour Period**
  - 3.1.5 Small Mesh Bottom Trawl (SMBT) Fleet Days Out**  
**Option B: Additional Days Out Program for Small Mesh Bottom Trawl Vessels with a Category C or D Permit. The small mesh bottom trawl fishery must opt into the area 1A by June 1<sup>st</sup> annually**
  - 3.1.6 Clarification of Days Out Procedure**  
**Options B: Type of Agreement (consensus) and Option C2: Default Landing Day Scenario (zero landing days)**  
Motion by Terry Stockwell; second by Dennis Abbott.
4. **Motion to Amend**  
**Move to amend section 3.1.6, option B2 replaces B1, Maine, New Hampshire, and Massachusetts will vote on parameters of the days out program (Page 12).**  
Motion by David Pierce; second by Dennis Abbott. Motion fails (3 in favor, 3 opposed, 1 abstentions) (Page 14).

**INDEX OF MOTIONS (continued)**

**Main Motion**

**Move that the Herring Section approve Addendum I including the following measures:**

**3.1.1 Harvester Reporting Requirements**

**Option B – Implement State landings Report as an alternative in the FMP toolbox in the event NMFS rescinds VMS access to the states**

**3.1.2 Prohibit Landings of Herring Caught in Area 1A During a Day Out of the Fishery**

**Option C: Days out restrictions for vessels with a Category A permit**

**3.1.3 Weekly Landing Limit Per Vessel (Pounds)**

**Option B: Weekly Harvester Landing Limit for Vessels with a Category A Permit. In 2017 vessels must opt into Area 1A by the May 23<sup>rd</sup> Days Out meeting in Portsmouth.**

**3.1.4 Landing Restriction on Transfers At-Sea with a reporting and permitting exception to states that have no carrier landings**

**Options B and C: The Section members from Maine, New Hampshire, and Massachusetts will have a choice of both alternative options at the annual Days Out Meetings: Option B - No Herring Carrier Vessels or transfer at sea and Option C - Herring Carrier Vessels are Limited to Receiving At-Sea Transfers from One Harvester Vessel Per Week and Landing Once Per 24-Hour Period**

**3.1.5 Small Mesh Bottom Trawl (SMBT) Fleet Days Out**

**Option B: Additional Days Out Program for Small Mesh Bottom Trawl Vessels with a Category C or D Permit. The small mesh bottom trawl fishery must opt into the area 1A by June 1<sup>st</sup> annually**

**3.1.6 Clarification of Days Out Procedure**

**Options B: Type of Agreement (consensus) and Option C2: Default Landing Day Scenario (zero landing days)**

Motion by Terry Stockwell; second by Dennis Abbott. Motion passes (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY; Opposed – NJ) (Page 14).

5. **Main Motion**

**Move that the Section permanently implement the GSI<sub>30</sub> Based Forecast System for spawning closures in Area 1A** (Page 18). Motion by David Pierce; second by Dennis Abbott

6. **Motion to Substitute**

**Move to substitute implement second year of the pilot program for the spawning closure in Area 1A** (Page 19). Motion by Adam Nowalsky; second by Steve Train. Motion fails (2 in favor, 3 opposed, 1 null vote) (Page 20).

7. **Main Motion**

**Move that the Section permanently implement the GSI<sub>30</sub> Based Forecast System for spawning closures in Area 1A.** Motion carried (Page 20).

**INDEX OF MOTIONS (continued)**

8. **Move to approve the Atlantic Herring FMP Review and state compliance reports and grant *de minimis* request from New York** (Page 21). Motion by James Gilmore; second by Terry Stockwell. Motion carried unanimously (Page 21).
9. **Motion to adjourn** by consent (Page 22).



**ATTENDANCE**

**Section Members**

Terry Stockwell, ME, proxy for P. Keliher (AA)	Mark Gibson, RI, proxy for J. Coit (AA)
Steve Train, ME (GA)	David Borden, RI (GA)
Sen. Joyce Maker, ME, proxy for Sen. Langley (LA)	Colleen Giannini, CT, proxy for M. Alexander (AA)
Doug Grout, NH (AA)	Sen. Craig Miner, CT (LA)
G. Ritchie White, NH (GA)	Jim Gilmore, NY (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Emerson Hasbrouck, NY (GA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	John McMurray, NY, proxy for Sen. Boyle (LA)
David Pierce, MA (AA)	Adam Nowalsky, NJ, proxy for Asm. Andrzejczak (LA)
Raymond Kane, MA (GA)	Tom Baum, NJ, proxy for L. Herrighty (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Tom Fote, NJ (GA)

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

**Ex-Officio Members**

Renee Zobel, Technical Committee Chair	Jeff Kaelin, Advisory Panel Chair
Michael Eastman, Law Enforcement Representative	

**Staff**

Robert Beal	Shanna Madsen
Toni Kerns	Kirby Rootes-Murdy
Ashton Harp	

**Guests**

Ed O'Brien, MD Leg. Proxy	Peter Kendall, NEFMC
Glenn Robbins, ME	

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of the Westin Hotel, Alexandria, Virginia, May 11, 2017, and was called to order at 1:00 o'clock p.m. by Chairman G. Ritchie White.

#### **CALL TO ORDER**

CHAIRMAN G. RITCHIE WHITE: I'll call the Atlantic Herring Section meeting to order. Before we get started, a couple of introductions. First, Terry Stockwell has an announcement.

MR. TERRY STOCKWELL: It is my great pleasure to introduce the Section to Senator Joyce Maker; she is here for her first time, a proxy for Senator Langley.

CHAIRMAN WHITE: Thank you, Terry, and welcome Senator. Secondly, the seat on this Section that the Council sends a representative today, at the last meeting we had a premiere fisherman from the state of Maine. Today we have the Committee Chair on the Council and a premiere fisherman from the state of New Hampshire, Peter Kendall; better known as P.K. Welcome, P.K.

#### **APPROVAL OF AGENDA**

CHAIRMAN WHITE: Next on the agenda, approval of the agenda, are there any changes, additions to the agenda? Terry.

MR. STOCKWELL: Under other business I would like to add a short discussion on the RSA Program.

CHAIRMAN WHITE: Okay, we will do that thank you, Terry.

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN WHITE: Next is approval of the proceedings from the February, 2017 meeting. Are there any changes or additions to those proceedings? Seeing none; motion passes.

#### **PUBLIC COMMENT**

CHAIRMAN WHITE: Public comment, is there any public comment on issues that are not on the agenda? I think we have a sign-in sheet. Did you raise your hand? Glen, you can come up to the public microphone?

MR. GLEN ROBBINS: Yes, Glen Robbins; fishing vessel Western Sea, a purse seiner for herring out of Maine. I just want to give you a little update on what I see has been going on in our fishery in the last 20 years; since the trawlers came in. I don't know if everybody knows what has been going on in the population of herring on Georges, but it has been dwindling rapidly in the last couple years.

I tried several times to get somebody to listen to, maybe we should have a spawning closure to protect these fish and stretch this out a little longer. But all I got was no, there is plenty of fish over on Georges; we don't need it at this time. Well, I think time has elapsed now and we're at crunch time. There is hardly anything left on Georges.

The trawler guys will tell you that there is haddock out there too many, but they don't bring them in with the herring. They don't even try. We've got a big problem out there. Maybe we should have a moratorium on it, or maybe we should, like many other countries outlaw or ban the trawl altogether. It is not a good way to go, it is too deadly. It cleans up too much and it doesn't come back fast. With purse seine in 1A, we seem to keep our fish pretty good, and we always catch our quota. Thank you.

CHAIRMAN WHITE: Ryan Raber. You pass, okay. Shawn. Pass, okay thank you.

#### **CONSIDER ADDENDUM I FOR FINAL APPROVAL**

CHAIRMAN WHITE: Okay next on the agenda is Consider Addendum I for Final Approval. Ashton. Terry.

MR. STOCKWELL: Yes, thank you Mr. Chairman, real briefly. In my introduction of Senator Maker, I neglected to mention that she is a Co-Chair of the Marine Resource Committee. We're here, I'm sitting next to an esteemed colleague.

CHAIRMAN WHITE: Thank you very much for that Terry.

MS. ASHTON HARP: I'm going to present the public comment summary for Draft Addendum I to the Interstate Atlantic Herring Fisheries Management Plan. As shown on the agenda, I am going to present this in two parts. It is very similar to how I did it at the public hearings. The first part is the six options within the addendum; followed by the LEC and Advisory Panel comment.

The second part is the scoping questions on a tiered weekly landing system; and I'll go over the public comment summary for that as well.

A brief overview of the addendum timeline. The Section initiated this addendum last year in October. This was following the 2015 and 2016 fishery performance.

There was a working group meeting in New Hampshire at the beginning of the year to discuss all of the options that would be in the document. Originally there were nine options, as you saw in the document now it is six. This draft addendum as you see it now, with some alterations, was presented at the end of January to the Section.

It was approved for public comment in January, and then it went out for public comment in four states. I did public hearings along the coast and received written comments as well, and now we're here today where we're going to review all the public comment and potentially approve Draft Addendum I to the Atlantic herring fisheries management plan.

Please note, if approved, the implementation will need to be established. Keeping in mind that

the fishing year starts on June 1, for Area 1A. A brief background about the statement of the problem; in recent years the Area 1A Trimester 2 fishery, which is June through September, has harvested herring at a rate that if left unrestricted would exceed the seasonal quota in weeks, not months.

There has been an increase in fishing effort and vessel capacity combined with a decrease of readily available herring in Area 3. Traditionally Area 1A and Area 3 are taken together in the summer months, and both support the lobster bait market. If one area is not providing enough herring then there is going to automatically be a shortage.

Attempts to spread the Trimester 2 quota have proven to be ineffective. As we saw last year, Maine implemented measures that were more restrictive than those of the Commission to curtail effort. The purpose of this addendum is to develop additional management measures to ensure the seasonal quota is spread out through the entirety of Trimester 2, are consistent between the states; and address any excessive capacity in this fishery. A lot of the alternative measures are geared towards the days out program.

An overview of the public comment summary, hearings were held in Maine, New Hampshire, Massachusetts, and New Jersey. I also received written comment from 18 different entities that are listed on the board as well. I should note that there were some Maine participants that were at the New Hampshire and the Massachusetts hearing; so you just should note that when looking at the public comment vote totals.

#### **REVIEW OPTIONS AND PUBLIC COMMENT**

MS. HARP: I should note that the PDT said that to improve the stability of the fishery and stabilize the rate of harvest during the fishing season, the adoption of all six options is not necessary. One or two could be adopted, all six could be adopted. It is up to the Section at this meeting.

The first option is the state vessel landing reports. Option A is status quo, given the majority of the vessels in this fishery are federally permitted vessels they will continue to submit federal VTRs. Option B says that the vessels in this fishery would also submit state landing reports. These landing reports would give the Commission and the states access to real-time data that they currently do not have.

Usually managers look to the GARFO weekly monitoring reports for an update on the rate of catch in this fishery. But weekly access data is not enough for some of the options in here, such as weekly landings limit. We would need access to real-time data for proper execution of some measures.

I should note that the Commission did send a letter to NMFS, requesting access to daily-catch data for select state staff. NMFS has approved the Commission's request. There were three individuals, one from Maine, New Hampshire, and Massachusetts that were included in that letter; to garner access to this data. NMFS is actively working with those individuals to obtain access.

Keeping in mind the states now have access to real time data from GARFO, I will present the public comment summary on this issue.

In the table the columns are Maine, New Hampshire, Massachusetts, New Jersey and WC is written comment. As you can see the majority of people, well actually there are some caveats. Some that were in favor of Option B, implementing a state landing report, said they would do so reluctantly. They wanted the fishermen to have access to the data they needed to manage the fishery. However, submitting a duplicate report was seen as a burden on them, and something that they didn't want to do. They really wanted the Commission to work with National Marine Fisheries Service to get access to this data, which happened.

Moving on to Issue 2, modify the days-out program. Option A is status quo. Right now harvesters are prohibited from landing herring on a day out of the fishery. For example, if there are seven days in a fishery, managers can come together and say that Monday and Tuesday are open for a vessel to land herring. There is nothing to say that the vessel can't still fish or they can't be in possession of fish during the days out.

Option B and C specifically restrict a vessel from doing that. It says harvesters are prohibited from landing or possessing herring caught from Area 1A during a day out of the fishery. Option B applies this as a blanket statement to all harvesters, whereas Option C implements this only for Category A vessels; which make up the majority of the landings in this fishery.

MS. HARP: When looking at the public comment on this, the majority were in favor of status quo; meaning no restriction on landing if fish were caught during a day out. Those opposed to Options B and C voiced concerns about weather, safety and economic constraints, if the measures were implemented. Options B and C were also voiced as being inconsistent with the federal plan.

At some of the public hearings there was a request for the days out program to be reevaluated; in terms of whether it was necessary if a weekly landing limit was implemented. If there was a weekly landing limit and there was a preference for the available landing days to be set at seven days.

Moving on to Issue 3; weekly landing limit; so this would be a blanket limit for all vessels in the fishery, and it would be for each vessel.

Option A is status quo, there is no weekly landing limit in this fishery set forth by the Commission. We know that Maine implemented one last year, but from the Commission's point of view in the fisheries management plan; there is no weekly landing limit. Option B and C implement one.

Option B is only for Category A permits. Option C is for Category A and C permits. There is also a note in the document that said that vessels must notify states with their intent to fish in Area 1A, and the gear type, 45 days prior to the start of the fishing season.

This was to be used by the Technical Committee to determine the initial weekly landing limit. We would need to know this to set the Trimester 2 weekly landing limit which is based the seasonal quota, the number of vessels in the fishery, and number of weeks available for harvest.

The public comment summary on this issue was in favor of Option C; which would apply the weekly landing limit to Categories A and C permitted vessels. Over and over again I heard the term equal restrictions for all vessels in the fishery were a preferred management approach.

There was some support for Option B, because C vessels already have a landing limit of 25 metric tons due to their federal permit. It was voiced that the majority of C vessels can't hold anywhere near a 25 metric ton capacity; and it is very unlikely that these vessels would fish seven days a week at that level.

Applying these measures to Category C was another burden on them that is not necessary given they account for less than 1% of overall landings.

Two questions came up on this issue frequently. One was can a vessel leave Area 1A if it is declared into the fishery. The answer is yes. This is just a requirement to declare into the fishery. There is no actual requirement to fish in Area 1A as the sole management area where you fish. A vessel could come into Area 1A, leave and go to Area 3, and come back to Area 1A.

Of course that could affect the weekly landing limit scenario; which goes to the second question. Is the weekly landing limit fixed over time? No, it's not. If a vessel leaves to go into Area 3 then the TC would have to adjust the

weekly landing limit over time; to make sure that the Trimester 2 quota is being fully utilized.

There is no reason to believe that a weekly landing limit would diminish or limit catch in such a manner that the seasonal quota would not be harvested.

Issue 4 is landing restrictions on transfers at sea. Option A is status quo. A vessel with proper permits can transfer or receive Atlantic herring at sea. Option B is herring caught in Area 1A can only be landed by the respective harvester vessel, which frankly just means that there will be no carrier vessels. The vessel that caught the fish will then land the fish; there will be no transfers at sea.

Option C is herring carrier vessels are limited to receiving at-sea transfers from one harvester vessel per week; and there can be one landing per 24 hour period. Maine did implement this in 2016. If implemented then New Hampshire and Massachusetts would have to develop some kind of reporting mechanism to monitor transfers at sea.

The carrier vessels don't have to report on federal VTRs any more, only the harvester vessels do; so there needs to be some way that the states can monitor if these vessels are actually transferring at sea and if they're actually landing once per day.

When looking at the public comment summary. There was support for Option C, if it could reduce fishing pressure. Although some didn't support it because it could put smaller carriers out of business, similar to what Option B is explicitly doing. For example, if a harvester vessel can only choose one carrier vessel per week, the size of the vessel will likely be an important factor; and a bigger carrier vessel that could hold more fish would be more attractive to the harvester vessels, thereby putting the small vessels out of business if they can only choose one carrier vessel per week.

There was also a fair amount of concern that limiting carriers could increase slippage. If a harvester can only transfer to one carrier vessel, and they have more than what their vessel can hold, more than what the carrier can hold, then the additional fish would have to be dumped. Concern that dumping the fish goes against the goals and objectives of the state FMP, which was voiced by participants, and the state and federal FMP would also be inconsistent on this matter.

For the small-mesh-bottom trawl days out, Option A is status quo. Right now the days out program applies to all harvesters, regardless of gear type. Option B is a small-mesh-bottom trawl days out program for Category C and D permits that opt into the program. There would also be a notification period of 45 days prior to the start of the fishing season. I just want to touch on why this was initiated. Small-mesh-bottom-trawl vessels traditionally target whiting, and they would like to target whiting during the week; so that's Monday through Friday, and then they want to target herring over the weekend.

But the landing day's program has traditionally allowed landings at the beginning of the week, generally on Monday, Tuesday, Wednesday is when a vessel can land herring. But these small-mesh-bottom trawl vessels are landing whiting at that time. Rarely are landing days available on weekends.

This was initiated to apply more flexibility for the small-mesh-bottom trawl fishing vessels in this fishery. For the public comment summary, you can see that most people were in favor of Option B. There is actually a petition that was given to me at the New Hampshire and Massachusetts public hearings to support Option B.

I paraphrased it and I'll read it right now. It says we, the Massachusetts and New Hampshire fishermen and lobstermen are very concerned with the unavailability of herring to our area of southern Area 1A during July through September. There is a small but important

traditional whiting fishery that takes place in our area from July through October that only catches 1 percent of the sub-ACL due to the more restrictive landing days being proposed, we support Option B.

There are also some comments that voiced how dependent some lobstermen are on herring from these small-mesh-bottom trawl vessels and they have been affected last year and the year before when there was a shortage of herring in their area. A lot of the herring was landed in Maine, but it wasn't making its way down south. It is harder for that bait to come down into the New Hampshire and Massachusetts area, so there was less and less bait.

They would like to have measures that allow these small-mesh-bottom trawl vessels to land herring; so that they can have more access to bait. Given a good number of the small-mesh-bottom trawl vessels do not start fishing until the mid-July, there was also a preference to shorten the declaration period or abolish it in general. For example, it would start on June 1st instead of 45 days out, since they usually don't start fishing until mid-July.

The last issue was a clarification of the days-out program. Currently the FMP says that if states cannot come to a days-out decision then the matter will come before the Section at the next scheduled meeting. The alternative text clarifies how states would agree on Days Out measures.

It can be Option B1 voting, B2, consensus, and what is the default landing days if the states cannot come to an agreement? Is it seven available landing days, which is Option C1? Also included in C1, is the ability to carry over the previously agreed upon landing days should state not agree on a new landing day scenario, provided the previous agreement was made in the current fishing year. Option C2 says that if they can't come to an agreement then zero landing days would be implemented until an agreement is reached.

The public comment summary on this was a little bit mixed. There were a fair number of people that were in favor of Option B1 as voting, as just the fairest way to make a decision. Each state should have to just make a vote, and we'll see where it lands; since there are only three states, clearly there is going to be a decision made. Those in favor of Option B2, a consensus, said that this could force the parties to talk it out, and make sure that everyone stated their opinion on the matter and talked through why X number of days might be better or worse than an alternative.

People also said they didn't want voting, they thought that voting might result in one state just constantly being overpowered by the other two. There were a number of people in favor of Option C1, so that would rollover the existing days out landings days, or implement seven days. There were some people that were in favor of Option C2, which is zero days; mainly saying this could force a decision.

Clearly no one wants to have zero landing days available in this fishery that would effectively shut it down. Some people also opposed C2, because it could shut down this fishery. Given it is a federal fishery they didn't think that it should be shut down by the Commission; just because three states couldn't come to an agreement. With that I'll take questions.

#### **ADVISORY PANEL REPORT**

CHAIRMAN WHITE: That's making a complicated report fairly simple, any questions for Ashton? Seeing none; I'll go to the Advisory Panel report, Jeff.

MR. JEFF KAELIN: Members of the Section, good afternoon. I'm Jeff Kaelin; with Lund's Fisheries out of Cape May, New Jersey, and privileged to Chair of the AP. There is a copy of our brief report in your packet. We didn't have a quorum, but we proceeded to operate by consensus where we could, Mr. Chairman, and that is reflected in the discussion. Also as you know on

the agenda later today there is an opportunity to begin the process of refreshing the AP.

We met by conference call on April 10. We discussed the management alternatives that you just heard reviewed by Ashton, and also the comments from the various public hearings. Relative to management alternatives, on the first issue, State Vessel Landing Reports, the discussion focused on the applicability of VMS as an avenue for the states to monitor the rate of catch. That is on the agenda for later, for your consideration I think.

I think the feeling was that since the fleet was making pre-trip landing reports daily that if the Commission had that information you would have a better idea where you are relative to the 1A quota in more of a real-time sense. One member noted however, they would reluctantly comply with the additional reporting requirements if Option B were to be implemented.

One member commented that boats with federal permits are already reporting, I just made that point, and don't want to report the same information twice. That discussion will occur later in your agenda. In Issue 2, Prohibit Landings of Herring Caught in 1A During a Day Out of the Fishery. Three members were in favor of Option A, the status quo.

There was opposition to restricting the possession of herring on a day out, because the majority of fishing takes place in federal waters. Two of the three members believe the days out should be a tool for managers as needed. But if weekly landing limits are implemented, then harvesters should be allowed to land seven days per week.

On the weekly landing limit, the AP supported using a weekly landing limit; but was opposed to the requirement that harvesters declare into the fishery 45 days prior to the start of the fishing season. There was no preferred declaration period offered, and the AP was questioning the

purpose of this lengthy declaration for the following reasons.

It doesn't restrict vessels to fishing in 1A; it is easy to know the number of vessels fishing per week, because the Area 1A fishery is small. Not a good indicator of future effort, as it was anticipated that all vessels would simply declare into the fishery. The weekly landing limit will fluctuate based on the number of vessels fishing each week; in any case.

Issue 4, Landing Restriction on Transfers at Sea there was support for status quo, Option A, because the other options could lead to discards; and the members on the call think a weekly landing is a sufficient effort control, and restrictions on carriers aren't necessary. There was one advisor that asked if Option C would put smaller carriers out of business.

Others commented that it likely would, because the preference would shift to larger carriers. One member voiced that he didn't want harvesters with the additional capacity of carriers targeting and taking entire schools of herring. Other members voiced that it is not the goal of the harvester to take the entire school, but if there is extra fish that are caught they should be transferred to a carrier rather than being dumped.

Any option that has a chance of increasing discards should be avoided. That was a consensus statement. On the Small Mesh Bottom Trawl Days Out, members supported Option B; as long as the vessels were required to report their landings. For example, if the state vessel landing reports are implemented then they should be required for the small-mesh-bottom trawl fleet as well.

On the Clarification of the Days Out Procedure, two members preferred Option B2, the consensus option; because it required managers to discuss the issues in detail. Some members questioned Option C2, zero days, because it has the potential to shut down the federal fishery;

whereas two members viewed it as an incentive for managers to come to an agreement and force a consensus. We didn't have consensus on that.

Section 4, Scoping Questions, there was two members of the AP opposed to tiered weekly landing limits; because it is not consistent with the federal FMP. If this effort was to be considered, it should be initiated by the Council. We all know that there is a letter from the Council to the Section on those issues. That ends my report, Mr. Chairman. I would be happy to take any questions.

#### **LAW ENFORCEMENT COMMITTEE REPORT**

CHAIRMAN WHITE: Are there any questions for Jeff? Seeing none; thank you again. Law Enforcement, Lieutenant.

LIEUTENANT MICHAEL EASTMAN: Good afternoon; I'm Lieutenant Michael Eastman, I'm the Chairman of the Law Enforcement Committee and also Law Enforcement Advisor to the Herring Board. On reference to Addendum 1 on March 17, 2017, the Law Enforcement Committee had a teleconference call, in which we discussed Addendum 1. On the attendance of that teleconference on this matter were North Carolina, Rhode Island, Florida, Maine, New Hampshire, Pennsylvania, New York, Virginia, Maryland, Georgia, New Jersey, Delaware, U.S. Coast Guard, and NOAA OLE. I'll reference Issue 1, Harvester Report Requirements. We the LEC recommended the most timely and accurate reporting possible to enhance enforcement efforts. State access to federal reports is important for timeliness. Maine reported success in implementing state reports, and was able to regularly review e-mail reports for carrier vessels.

Issue 2, Days Out, the LEC did not offer any comments or recommendations on the options in this draft. Issue 3, Weekly Landing Limits, we recommended establishing weekly landing limits in pounds and truckloads. Maine reported no significant problems in implementing a weekly landing limit. They're officer's typically



monitored landings by truckloads rather than by poundage, a more efficient process.

They are using the estimate of approximately 40,000 pounds per truckload. With timely access to reports, weekly landing limits can be enforced. Issue 4, Restrictions on Transfers at Sea. The LEC believes that Option B is more enforceable than Option C, but recognizes this may place a hardship on carrier vessels that have operated for many years.

Issue 5, Days-Out for Small-Mesh Bottom Trawl Vessels, we are comfortable with Option B, and did not believe an additional program for small-mesh-bottom trawl vessels would be overly confusing from an enforcement perspective. Issue 6, Clarification on Days-Out Procedure. The LEC did not have any comments regarding this issue. The LEC appreciates the opportunity to provide enforcement advice to the Atlantic Herring Management Section regarding Draft Addendum I. That is all I have Mr. Chairman, are there any questions?

CHAIRMAN WHITE: Any questions for Lieutenant Eastman? Seeing none; I know you have a letter from the Council, but I would like to recognize P.K. to see if he has any additions to that.

MR. PETER KENDALL: Yes, I'll be brief. I would like to thank the Commission for allowing the New England Council to have a seat, and thank the Commission for allowing the Council to comment after the deadline. The Council met as a Whole after the deadline, and we were able to comment after the deadline; so we appreciate that.

Our Executive Director summed up any concerns the Council has in a letter to the Commission. It should be in your correspondence. I'll just go through it briefly, a couple of bullet points; what the Council thought. Under the harvesting reports the Council was not clear about the sharing request that the Commission made to GARFO, and confidential data needs to be

carefully considered when asking about that; because there are so few vessels in the fleet.

As far as prohibiting landings for herring caught in Area 1, using the days-out, both Options B and C have the potential to affect herring fishing activity by federal herring permit holders. The federal FMP does not limit fishing activity using the days-out; therefore this might be inconsistent with the federal FMP; so the Council had a little concern about that.

As far as the weekly landing limit per vessel, the Council just had concern that this might increase slippage and discards using the weekly landing limits. As far as landing restrictions on transfers-at-sea, the Council was still unclear whether or not the Commission would be able to restrict carrier vessels at all. The small-mesh-bottom trawl, again as reported by Ashton and I think Jeff as well, the 45 day comment period is probably too long; especially if the Addendum I doesn't go into effect until June. It could affect the opening of the herring industry in July. With that; as far as clarification on the days-out procedure, the Council doesn't have any concerns other than it supports defining the procedure a little bit better, which I think you will end up doing.

CHAIRMAN WHITE: Any questions for P.K.? Okay seeing none; it is time to consider final action. Oops sorry, Dr. Pierce.

DR. DAVID PIERCE: Not a question of P.K., but I've got a comment regarding the letter, if I may. P.K. you did a good job summarizing the New England Council's perspective; but it is obvious that there are other New England Council members present here, as voting members of the sea herring Section that would be myself and Terry and well of course New Hampshire, and Rhode Island and Connecticut.

We're all part of the New England Council as well, and we wear a few hats. I am very sympathetic, of course, to the points that were made by the Council, specific to this proposed

addendum. But I feel it's necessary to at least make a couple of points regarding a few of the comments made that this proposed addendum may substantially and adversely affect the federal Atlantic herring fishery management plan, very specific language has great meaning of course and great significance.

I still say, and I said this at the New England Council meeting where we discussed what would be said to this particular Section; that this Section has done a lot over the years to help the New England Council achieve the objectives of the federal fisheries management plan by virtue of the way in which we have controlled, managed, regulated the effort of federal permit holders who land in our states.

As a consequence of that I find it hard to believe that we are in any way substantially and adversely affecting the federal FMP. I would also highlight that the comments are made, I understand why the comments were made; but I have to reflect on other things that states are doing that we've been doing for many, many years.

With sea herring for example, our spawning closures, we affect federal fishing. We affect the fishing of federal permit holders in federal waters by virtue of our spawning closures. They cannot fish. I note that some states actually have, in the Mid-Atlantic area specifically; they actually have some federal quotas that were allocated to federal permit holders, using the state individual transferable quota approach.

The federal government never objected to that. To me that is a rather interesting way for states to deal with federal permit holders; some states anyways. I'll stop there. There are many other examples that can be provided regarding how states are attempting to assist the councils better manage these fisheries.

That involves impacting the efforts of federal permit holders who obviously have permits to land in our various states. Again, I appreciate the

issues and the comments made by the Council, but I am very confident that we in no way have put the federal plan at risk; that we have substantially or adversely affected the federal FMP.

#### **CONSIDER FINAL APPROVAL OF ADDENDUM I**

CHAIRMAN WHITE: Thank you, David, I think that's an important clarification. Are there any other questions or comments? Seeing none; we're up for considering final approval for Addendum I. Unless there is an objection, I'm going to take a motion that includes everything in the Addendum, and try that to see if we can get through this quickly. Terry, I'll recognize you.

MR. STOCKWELL: Kirby, I sent you the motion. **I'm going to move that the Herring Section approve the following measures for the Herring Addendum I. When he gets them up on the board I'll go through them section by section. Section 3.1.1 the Harvester Reporting Requirements, Option B, implement the state landings reporting as an alternative in the FMP, in the event that NMFS rescinds VMS access to the states.**

**Section 3.1.2 Prohibit the landings of herring caught in Area 1A during the day-out of the fishery; Option C, days-out restrictions for vessels with a Category A permit. Section 3.1.3 Weekly Landing Limit per Vessel (pounds) Option B, weekly harvester land limits for vessels with a Category A permit. In 2017, vessels must opt into Area 1A by the May 23 rd days-out meeting.**

**Section 3.1.4 Landing restrictions on Transfers At-Sea with reporting exemptions to states that have no carrier landings, Options both B and C, the Section members from Maine, New Hampshire, and Mass will have a choice of both options at their annual days-out meetings. Option B is no herring carrier vessels or transfer at sea, and Option C is herring carrier vessels are limited to receiving at-sea transfers from one vessel per week, and landing once per 24 hour period.**

**Section 3.1.5; Small Mesh Bottom Trawl Fleet Days Out, Option B, additional days-out program for small-mesh-bottom-trawl vessels with a Category C or D permit. Finally, Section 3.1.6 Clarification of Days-Out Procedure, Options B, type of agreement (consensus) coupled with Option C2, default landing day scenario would be zero landing days. I've got a little rationale if I get a second.**

CHAIRMAN WHITE: Is there a second, Dennis Abbott second. Go ahead, Terry.

MR. STOCKWELL: It is my belief that these combined alternatives will add some new tools to the Herring Section of members from Maine, New Hampshire and Mass for potential implementation in Area 1A this coming year. These measures were pilot tested by the state of Maine this last year, to ensure an even playing field will happen between the vessels and the different states.

These measures will ensure that the Area 1A fishery landings will be spread out into September, providing bait for all three states lobster fisheries. It will allow for the necessary flexibility and accountability for the Category C and small-mesh trawlers that have traditionally only harvested about 1 percent of the overall quota.

These small-mesh trawler provisions will allow for weather and market safety issues and the number of days can be modified in mid-season if landings exceed the TCs projections. Proving both alternatives to the landing restrictions on Transfers-at-Sea will allow the Section to annually determine the most appropriate option dependent upon the number of vessels opting into the fishery. Finally, we've operated under voting by consensus for a long time. We have a pretty good cooperation between the three states. My sense is that consensus ensures that continued cooperative management. Should consensus not be agreed upon, which we haven't yet now, no landings would, rather than

wide open landings, from my perspective would further enable some sort of a resolution. That is my rationale, Mr. Chairman, thank you.

CHAIRMAN WHITE: Any other input? Doug.

MR. DOUGLAS E. GROUT: Thank you, Terry for this motion. I do have a couple questions, one specifically to 3.1.4 where you mention that we're selecting options B and C. The Section will have the choice of both alternative options at the annual days-out meeting. Do you mean the Section members from Massachusetts, Maine and New Hampshire?

MR. STOCKWELL: Thank you for the question, Doug, yes that is correct. It is just those three states that annually determine the days-out measures.

MR. GROUT: Would you like to have a friendly amendment to make that clear, Mr. Chair?

CHAIRMAN WHITE: Sure, is the seconder okay with that?

MR. GROUT: **The wording would be; The Section members from Maine, New Hampshire and Massachusetts.** Okay thank you for that friendly. On this particular issue and I'll wait.

CHAIRMAN WHITE: Also, is there any objection to that friendly amendment? Seeing none.

MR. GROUT: My question is for Mr. Stockwell. One of the things that I had concerns with this is that this would require states to implement both a permit system for the carrier vessels, and a monitoring system for the carrier vessels. At least one and probably two states don't have carrier vessels that are landing in our state.

I'm concerned about the implementing this for something that we don't have. I understand your desire and the need to have something like this, but to have to implement it in a state that doesn't have carrier vessels concerned me. I am

concerned about supporting it, if I'm going to have to implement that.

CHAIRMAN WHITE: Terry, respond.

MR. STOCKWELL: Doug, would it give you comfort if it was modified to add permitting and reporting? I mean under 3.1.4 there is a reporting exemption. Do you want reporting and permitting exemption to states that have no carrier landings work for you?

MR. GROUT: That would, thank you.

CHAIRMAN WHITE: Any objections for the seconder making that change? Dennis. Any objections from the Section?

MR. STOCKWELL: Kirby that is Section 3.1.4. It would be with exemption states, Landing Restrictions on Transfer At-Sea with a reporting and permitting exception to states that have no carrier landings. First line after with, oh wait a second.

MR. ERIC REID: I have to ask the question, because I'm not totally clear.

CHAIRMAN WHITE: Hang on a minute. Is the change as you suggested?

MR. GROUT: Yes I am, and I have one other question.

CHAIRMAN WHITE: Go ahead, Doug.

MR. GROUT: I know we had, under 3.1.3 we have a modified period when we have to declare into the fishery. One of the things for the small-mesh-bottom-trawl fleet days-out is we need to have the small-mesh-bottom trawls declare their intent to fish in 1A too, so that we have at least according to the addendum, we have a list of the small-mesh-bottom trawls that are fishing.

I'm wondering if we need to have a modified declaration date for this year also. Now it is probably not as critical right now, because those

boats, at least in the, I believe the fishery doesn't start until July 15th. We may still be in good shape if we pass this amendment now or this addendum now.

I just want to make sure that we don't have to have a modified date at this point. But it will be okay with not getting that with requiring that that be in by, it would probably be June 1. I asked that of the PDT and then the TC is going to have to monitor these vessels.

MS. HARP: I just have a question. Just given the public comment that I received, would the Section be interested in having the June 1st date be the date in perpetuity? Just given that 45 days from the start of the fishing season of June 1st really isn't the start of their fishing season. It is quite far out for them. I wanted to know if that was up for consideration or if the TC, Renee, if you had any qualms against that.

MR. GROUT: I'm okay with it being done at least by that time.

CHAIRMAN WHITE: Hang on Terry, I left Eric waiting here a bit, so let me go to Eric; back to Terry.

MR. STOCKWELL: I'm a little confused by the question there; is it the reference to all access to Area 1A or just small mesh?

MS. HARP: Just small-mesh-bottom trawl would have a June 1<sup>st</sup> declaration every year.

MR. GROUT: That sounds good to me. \*We ought to put something in to reflect that.

***(\*Whereupon the recorder lost power.)***

MR. STOCKWELL: No objections.

MR. GROUT: All small mesh bottom trawls must declare into the fishery by June 1st every year into Area 1A fishery.

CHAIRMAN WHITE: Is the seconder okay?

MR. DENNIS ABBOTT: Well, Mr. Chairman you've repeatedly violated all our training in parliamentary procedure. But that's fine.

MR. GROUT: I could make a motion.

CHAIRMAN WHITE: I know that. I am asking if there is any objection though. Eric.

MR. REID: It has to be explained to me what the impact is on foreign carriers. There are Canadian boats that come down that are carriers. I don't know their involvement, how many of them there are, and what affect this has on them. I appreciate the motion, but I would like to get some clarification on what that means.

CHAIRMAN WHITE: Terry.

MR. STOCKWELL: Good question, Eric. There is a 4,000 ton boarder transfer that is in place regardless of this.

MR. REID: So essentially this would have no ramifications there or on the U.S. fleet and the landings of the states, so we're good with that.

MR. STOCKWELL: The herring goes both ways.

MR. REID: All right, thank you.

CHAIRMAN WHITE: Steve.

MR. STEPHEN R. TRAIN: I believe I'm on board with all this, I just need one clarification and I don't know if it's going to come from Terry or someone on staff. But the declaration in on May 23rd, what does that mean? I mean I thought when we asked people to declare it was so we could plan our days out. I heard a lot of different things said during the readings of all the comments. Does declaring in mean nothing more than you might be one of the boats in it, and you can come and go at will?

CHAIRMAN WHITE: Correct. It doesn't bind a boat to do anything. My guess is anybody that

has any thought at all about fishing is just going to declare. David.

DR. PIERCE: Terry's done a good job addressing the Addendum and the statement of the problem. I appreciate every aspect of the motion that has been made, except one part of it. We have a serious problem with how we control the landings of sea herring in our different states relative to the quotas that we have to live with.

There is a desperate need to slow this fishery down, in order to provide a more steady supply of lobster bait. I'll support the motion as presented just with one exception; **and I would like to move to amend and that would be to change 3.1.6 Option B2, and make that Option B1, which would be that the states of Maine, New Hampshire, and Massachusetts will vote on the parameters of the days out program.** Instead of seeking consensus, I appreciate the merits of that. But in this particular case, reflecting on the many years of working with the other two states, New Hampshire and Maine, and debating whether we should vote or whether there should be a consensus. I'm convinced that we should just do it as a formal vote, make it far simpler. That's my motion to amend; to change it from Option B2 to B1.

CHAIRMAN WHITE: Thank you, David, is there a second to that motion? You seconded that Dennis? Okay. Discussion. Okay, are we ready to vote on the amendment? Ashton.

MS. HARP: I just had a quick question for the state landing reports, just so I understand for the final write up of the document. This would just say that if for some reason National Marine Fisheries Service rescinded the access to the three states that then the state landing reports would go be instated. The states don't have to develop the criteria or anything to implement such a system. That would come at a later date.

MR. STOCKWELL: That's correct.

CHAIRMAN WHITE: Any other questions or discussion? P.K.

MR. KENDALL: Not necessarily on the motion to amend, but maybe the main motion as amended. I have a question on the timing of everything. If you take final action today, I mean you're expecting everybody to declare in by May 23rd, for this fishing year, and for all the small-mesh-bottom trawls to declare in by June 1st. Is that correct?

MS. HARP: That is how the motion has outlined the dates, yes.

MR. KENDALL: Okay, my concern is just the timing of it. That is pretty fast, so as long as everybody gets notice to make sure, especially small-mesh-bottom trawls who might not be, the bigger fleets, most of the guys are here or the word will get out pretty fast. As long as the small-mesh-bottom trawls know that they have to declare-in in the next few weeks here, then I'll be comfortable with it.

CHAIRMAN WHITE: The three states, Maine, New Hampshire and Massachusetts are comfortable that they're going to be able to notify their small-mesh-bottom trawl fleets. I see nodding, thank you. Dennis.

MR. ABBOTT: Would it be permissible at this time for me to comment on the motion?

CHAIRMAN WHITE: On the amendment?

MR. ABBOTT: Yes. I seconded this motion for several reasons, one of them being, I'll backtrack and say that I've been involved in this three state affair in setting our days out for a long time. In many instances we ended up convincing Dr. Pierce to go along with the other two states, and he's always been pliable in whatever.

The very fact is that if you insist on consensus, it really allows the minority a bit more power than they deserve. Although we seek ultimately for consensus if the situation comes up where we're

unable to achieve consensus, I think that it should be majority rule; and that is the reason I seconded Dr. Pierce's motion.

MR. STOCKWELL: That's too good an opportunity to let go. I feel quite opposite. I feel that as a state with 95 plus percent of the fishery in one trimester that we work very closely with the other two states to pull together a program that works for everyone; as much as Dr. Pierce and the Commonwealth bends to the wishes of Maine and New Hampshire for Trimester 2.

We bend to the wishes of the Commonwealth for Trimester 3. It is a very collaborative spirit. I think if we get into voting on a very important fishery, both to the state of Maine and to all three states lobster fisheries. I think we'll be doing the industry and there resource a disservice. I prefer the collaborative approach.

CHAIRMAN WHITE: Anybody else? Okay, are we ready to vote, do we need a caucus? Not seeing any heads nodding, **so all in favor of the amendment, please raise your right hand, all opposed, null votes, abstentions. The amendment fails in a tie vote**, so now we're on to the main motion. Doug.

MR. GROUT: I would like to make an amendment to the default landing day scenario. I agree with Terry that consensus has worked before, although what our previous default was if we couldn't come to a consensus there would be seven landing days. This is not a resource issue, but this is about trying to protect the resource.

This is about trying to constrain the landings so that there is a supply of bait throughout the Trimester 2 period. I think the default landing day scenario, if we can't come to a consensus should be seven days, or if it is in season, whatever the previously agreed to landings day. **I would make a motion to change Option C2 to C1.**

CHAIRMAN WHITE: **Is there a second? Seeing none; motion fails.** Any further discussion on

the main motion? Seeing none; this is a final action so this will be a roll call vote. Ashton.

MS. HARP: Maine.

MR. STOCKWELL: Yes.

MS. HARP: New Hampshire.

MR. ABBOTT: Yes.

MS. HARP: Massachusetts.

DR. PIERCE: Yes.

MS. HARP: Rhode Island.

MR. MARK GIBSON: Yes.

MS. HARP: Connecticut.

MS. COLLEEN GIANNINI: Yes.

MS. HARP: New York.

MR. JAMES J. GILMORE, JR.: Yes.

MS. HARP: New Jersey.

MR. TOM BAUM: No.

CHAIRMAN WHITE: **Motion passes 6, 1.**

**REVIEW THE SCOPING COMMENTS ON THE  
TIERED WEEKLY LANDING**

CHAIRMAN WHITE: Next item, Review the Scoping Comments on the Tiered Weekly Landing. Ashton.

MS. HARP: I'll just start with a brief overview. There were nine scoping questions in Draft Addendum I, whereby we were trying to gauge the public's interest in a tiered weekly landing limit system. The Area 1A herring vessels would be associated to a tier. The tiers are undetermined at this point.

Everything is just very theoretical, just trying to gauge interest in it. But if tiers were established then vessels would be assigned to a tier, which would be associated with a different weekly landing limit for each tier. This was the initial question, which is the most important question, because some participants at public hearings refused to answer any further questions if they were against a tiered system.

It was: are you in favor of a tiered weekly landing-limit system? As you can see in Maine, the majority were in favor. In New Hampshire they just found it very hard to comment on the topic, where there were no details. They basically said the devil is in the details and there are no details here, so we can't give adequate comment on it; although one person was opposed and one person was in favor. Both were from Maine.

Two other participants spoke generally about how the system could be tiered. In Massachusetts, participants were not in favor, except for one Maine fisherman. In New Jersey, no participants were in favor. They actually refused to answer any further questions about it. For the written comment there were four individuals in favor, and six were opposed.

I pulled some comments because they reflect the general comments for in favor and opposed. If people were in favor there was a preference for a three-tiered system, whereby Tier 1 would include those Category a vessels that fished in the last ten years. There was a preference for a three-tiered system based on permit category and harvester landing history.

For those that were opposed, some of the comments included that it will not only limit or eliminate competition for a public resource that will cause price increases, the quota, and therefore the resource is not and will not be affected by the number of boats in the fishery.

There was also a comment that said any future consideration of tiered access, should go

through the Council, and the Council should take any future initiation on this matter. I didn't receive much more comment than that. I think that in general people just felt like it was difficult to comment on a theoretical system.

CHAIRMAN WHITE: Any questions or discussion? Seeing none, oops sorry, Terry.

MR. STOCKWELL: Just for the Board's information. The Maine Marine Resource Committee considered a tiered license bill this past session, and many members of the Committee attended the public hearing we had on Draft Addendum I. Ultimately the Committee decided to hold this bill over until next year and that is the current status of it.

#### **DISCUSSION OF THE 2016 SPAWNING CLOSURE**

CHAIRMAN WHITE: Thank you for that update. You'll keep us apprised next year. Next agenda is Discussion of the 2016 Spawning Closure, the Technical Committee Chair; Rene.

MS. RENEE ZOBEL: Thank you, Mr. Chairman, thank you Section members. I'm here to go over the Spawning Area Closure monitoring system that was piloted this past year. Just a reminder of what was passed last year at the February meeting; it was on approval of Amendment 3, the Atlantic Herring Section granted a one-year pilot of the new method known as the GSI30 Based Forecasting System to be tested in the 2016 fishing season.

The Section can permanently implement the forecast system. Just a very quick refresher on the forecast system; for those in the room who didn't work with this or weren't familiar with it throughout the year. It's basically a relationship was made between the spawning condition of fish and day, and we found that there is a linear relationship.

What that allowed us to do is collect samples throughout the season, and as spawning progressed it developed a really nice linear relationship that allowed us to predict a date at

which those fish would go over a certain threshold. In a few moments I'm going to show you the results of that which was put through to a website that we all monitor. I'll give background on that as well.

That is the forecast system. The Section also has the option to revert back to the length-based closure system from prior years. The forecasting system is proactive, the length-based system is reactive; a reminder of what that looks like. That was based on two 100 fish samples taken within seven days; defaults if there was inadequate sampling.

They basically were based on a percentage of gonadal stages 3-5, that had reached certain thresholds based on their length. That was reactive, we waited until those fish hit us that reached that spawning threshold, and then we put in a closure. We had a wonderful partnership with ACCSP to implement this. We had a need to house the data somewhere we all had access to it.

ACCSP had conveniently a biological module that was already in place that we were able to utilize, and it allowed for formal coordination, the centralized database for all spawning samples. All states have access to it, and it allowed us to standardize our methods and results, which is extremely helpful when you're trying to coordinate \*three states, samplers and staff. This is just a snapshot of what that biological module looks like, for anybody's curiosity. Basically, it just collects the information that we need to do the analysis with various coding.

If there are any questions on that feel free to ask me later. How is this implemented? The data housed by ACCSP are run through our scripts, and are refreshed every two hours. This website that we have it displays the results of this. The script is refreshed every two hours and therefore what we see on that website is refreshed every two hours. It is extremely real-time. As data are put in there, we are able to see them; and it can change the forecasting closure date, based on



real-time samples that we're getting as soon as they get entered into the system. The results are then displayed on that web page. We rely upon three samples, each containing at least 25 female herring in gonadal stages 3-5, to trigger a spawning closure. There were in two of the areas significantly more than that number of samples.

Once the three samples are collected, closure dates are forecasted. You'll see when I display what the web page looks like; we had provided there is no date that shows up as an image in this website until we have at least three samples. In both areas that were closed based on this system, we had more than three samples.

Closure dates are set and notifications are made five days prior to the closure. Closures occur on default days if three samples are unavailable. This is a timeline of what 2016 looked like. Eastern Maine was closed on the default dates, because we were not able to get any sampling. My understanding was there was minimal if no fishing occurring.

That was August 28 through September 24. Western Maine was closed via the forecasting system. That was closed on September 18 through October 15. Mass/New Hampshire was also closed based on the forecasting system. It was closed on October 2 through October 29. This is an example of what the website looks like for us, when those samples were run through the code and then displayed.

You can see there is a graph here of the GSIs, so the spawning condition and dates. This isn't very helpful, because there is nothing on it, because we do not have any samples. You can see there is a closure threshold, and then the red line that's the default closure. This is a little bit more informative.

This shows a little bit more of what it looks like. Sampling in the western Maine spawning area began on August 7. Live samples, totaling 216 female herring were collected to evaluate

spawning condition. Based on the analysis of those samples the western Maine spawning area was closed from September 18 through October 15.

You can see here each of those vertical lines of gray dots indicates a spawning sample. Those are each individual fish, where you can see the GSI for those fish. Then you can see over time there is clearly a linear relationship, and then that allows us to use the actual fish that year to determine when it's going to reach that threshold.

You can see that the closure occurred well before the defaults, because the fish we've seen had pretty broad interannual variability in the herring fishery, so they are different every year. We want to make sure that we're closing and protecting the spawning fish when those fish are spawning that year, not next year.

This is what was displayed for Mass/New Hampshire, sampling in Massachusetts, New Hampshire spawning area began on August 8; nine samples totaling 654 female herring were collected to evaluate spawning condition. Based on the analysis of the samples, the Massachusetts, New Hampshire spawning area was closed from October 2, through October 29.

You can see here there are clearly a much larger number of samples, and this one closed just before the default date; so very close to what the default would have been. Evaluation, when the TC looked at this there are some things to take into consideration; 92 percent of the Area 1A of allocation was taken and that area was closed effective October 18, prior to the opening of the spawning closure in Mass/New Hampshire. Due to the 1A closure the ability to get samples after the spawning closure was limited.

However, RSA samples were obtained that showed very few fish in spawning condition. That is exactly what we expected to see, and what we hoped to see. Samples after the closures indicated that fish had spawned,

meaning that we had done our jobs, so we protected spawning fish. You can see there that 6 percent were in spawning condition; which is well below the 25 percent threshold.

We also heard from a number of people on the water that is what they were seeing; that fish seemed to be spawning when the samples said they were going to be spawning. We considered that and not hearing of spawning fish hitting the dock like we had in previous years, also good corroboration to what we were doing.

Next steps, so the TC is comfortable sharing the link with managers and public in 2017 to those graphs that I had shown, based on the date and spawning condition; pending the inclusion of some caveats. The data are refreshed every two hours, so this is as real-time as we can get. It is constantly updating.

The fewer the samples the greater the changes in the forecasted dates will be as new samples are added. That is extremely important; if we have three samples that is enough for us to forecast a date. However, as we get more samples and get closer to that date that date is going to change and get refined.

The more samples there are the closer that date is going to be. The fewer samples there are the more variability there could be in that date. That date is not fixed until five days prior to the closure. That is something that is very, very important to understand; that that date will move around until five days prior, then it is locked in. That is the date we'll notify, five days prior.

That is the date we set the closure. TC recommendation, the TC believes the forecast system was successfully tested, and recommends the Section permanently implement the GSI30 Base Forecast System for the spawning closures in Area 1A. I am happy to take any questions from Section members at this time.

CHAIRMAN WHITE: Any questions for Rene? Terry.

MR. STOCKWELL: Not necessarily a question, but more of a comment. While I strongly support protecting the spawning fish and the new process and using the additional sampling. The five-day notice process last fall came close to impacting that goal. With a five-day notice that we got from the TC the New Hampshire/Mass area, would not have closed until the 2nd of October, which would have potentially allowed one full day of fishing on what really were spawned fish.

There is a little bit of a dance around that. I think for the future the Section, particularly Section Chair needs to be in close touch with the TC to prevent similar occasions, because I'm sure every year as they are different, we want to ensure that goal.

CHAIRMAN WHITE: I am not sure what action you are suggesting that we take.

MR. STOCKWELL: Thanks for the question. I'm not proposing an action. I'm just raising an issue that we came very close to not fulfilling our goal of protecting spawning fish. If we strictly follow the TC's recommendation of five days, we would, with the exception of the last minute scramble, have allowed for one day of fishing on spawning on spawning fish. I think we just need to have that caveat we need to keep our eyes on, and its management discretion. The TC is providing us with the best updated data that they have. We may need some management discretion.

CHAIRMAN WHITE: Any other questions? Yes, David.

DR. PIERCE: I'll follow Terry's lead. It's not a question, I just wanted to support what Terry said regarding the possibility of our not having complete protection because of a one-day, maybe even two days. I'll echo his suggestion, Mr. Chairman as to the close communication; so

we don't end up with that situation in coming years.

I would say however that we do well that you've vetted to the Technical Committee for the very hard work that they did to develop this particular approach, and then to get it in place and to make it work, in 2016. It is a lot of work, and now they have very clearly demonstrated that it was quite effective that it was successful. With that said, I would like to make a motion if it is appropriate, Mr. Chairman, regarding the TC recommendation.

CHAIRMAN WHITE: You can make a motion. I want to let you know I'm going to allow a little bit of public input, because there was concern; even though it was not written in as part of this process for this to go to the AP. Some members of the public wanted to comment on this, so allowing the motion and the second and discussion from the Section. Then I'm going to allow very limited public input, so go ahead, David.

**DR. PIERCE: I would move that we permanently implement the GSI30 Based Forecast System for spawning closures in Area 1A.**

CHAIRMAN WHITE: Second, Dennis. Do we have any people that want to comment, any members. Okay, so no Section members, I'll go to the public. Glen, and then I believe Jeff wants to.

MR. ROBBINS: Yes, Glen Robbins; fishing vessel Western Sea. These spawning closures are very important to me. We put these through in the eighties, back when Brennan was Commissioner in Maine. Out of the last five years, only last year did we hit it, and that was because they took some samples right to the end.

I would recommend that you think about two to four days rather than five days. The previous four years we didn't either close it first early enough or open it on time. When we opened it the fish were still spawning. You've got to watch

this. It happens too often. Out of five years we blew it four years. I would recommend two to four days. There are not very many of us that you have to notify, you can notify us real easy, and we won't go fishing on them. Thank you.

CHAIRMAN WHITE: Thank you, Glen. Jeff, did you want to speak?

MR. KAELIN: Jeff Kaelin, Lund's Fisheries. I am the AP Chair, I'm not speaking for the AP, but I came to the microphone because I did hear from one AP member, Mary Beth Tooley, who is a Council member from Maine; surprised that you were going to be taking final action on the pilot program today. I know myself I was too.

In the January/February Fisheries Focus this was slated as review the Pilot Program, the March 7 e-mail that I have on the preliminary agenda also said discuss. I think we were surprised that this final action is being taken today, with just one year of experience. It may or may not be a good thing to do in the future.

But the lack of opportunity for the AP to consider this and raise some of the issues like Glen just did, about the notification period. What is the appropriate notification time period? What is the projected impact on the fishery and so forth? It wasn't able to be discussed, even though we had an April 10 AP call.

I think what was suggested to me was that maybe you just run the Pilot Program another year, take a look at it a year from now, when you have 100 percent more information a second year. That is why I came to the table, Mr. Chairman. We'll live either way. I have learned how to read a room in my political life. I think whatever I have to say probably isn't going to dissuade the Section from supporting the motion on the board. But I just wanted to raise that process issue.

CHAIRMAN WHITE: Anybody else from the public? Not seeing anybody we did have another

AP member, as Jeff said, said an e-mail on that. Ashton will read that.

MS. HARP: This is a public comment from Mary Beth Tooley. It says, I am writing to express my concern about the final action you have on the agenda for herring spawning closures. While we have had an opportunity to provide public comment through hearings and an AP meeting on the Addendum, there was no mention of this final action of the Pilot Program for spawning measures.

Additionally, while there was a Power Point presentation on this topic, there was no document that provides the details of the program. I would like to request the Section to continue the Pilot Program in 2017 and seek input from the AP and fishery prior to final action.

CHAIRMAN WHITE: I also would just remind the Section that the AP did take this issue up and report it to the Board prior to the beginning of this one-year Pilot Project. We did hear from the AP concerning this issue, any other...Adam.

MR. ADAM NOWALSKY: To that end, let me ask, what would be the harm in continuing this for a second year as the pilot?

MS. HARP: How it was written in the motion when it was passed in February, 2016, was there would be a one-year pilot program; upon that there would be a decision made prior to the 2017 fishing year.

CHAIRMAN WHITE: Any other questions or comment? Dennis.

MR. ABBOTT: Yes, I'm in favor of the motion, obviously. But I think that going down the line; we always have the opportunity to change anything that we've implemented. If we at a further date decided this isn't correct or needs any changes, modifications, et cetera, the board could take action at that time.

CHAIRMAN WHITE: Anybody else? Steve.

MR. TRAIN: While I somewhat agree with Dennis, I find it's a lot harder to change direction then it is to delay a start. I like this system, but I don't see any problem with considering a second pilot year or a second test year before we make it permanent. We're still going to use it this year if we did it that way.

**MR. NOWALSKY: To that end, Mr. Chairman I'm going to move to substitute to implement a second year of the pilot program.**

CHAIRMAN WHITE: Is there a second? Steve Train second. Discussion. Doug.

MR. GROUT: Well, I'm opposed to this motion, because I was in support of implementing this with the original amendment. But I agreed at that point, because I did see some value in having a trial year to see how it worked. My read of the how it did work, including the report, is even better than what Terry had said.

I didn't see that much of a problem with the five-day notice in getting it out there, because we were so close to the default anyways. Things worked out very well, and it did a better job of predicting than what our old system did by far. I've been hearing for years from fishermen that we were missing with our old system the spawning time.

People were catching spawning fish before the closure would happen, and sometimes it was the other way around. I think this is a good system. I think it is a very rigorous system that was developed by our Technical Committee, and it has proven to be an effective tool and a much more effective tool than the other in our old system. I'm ready to move forward with it, Mr. Chairman.

CHAIRMAN WHITE: Any other input? Adam.

MR. NOWALSKY: Just speaking in support of my motion. I have no doubt that it has had good

effects in last year, but for the three samples, one of them we didn't have any samples to see what it would have indicated. I would like to see a second year of it, and hopefully we'll have all three samples for a second year; to confirm what we believe.

Appreciate all the effort that has gone into it, but it just seems to make sense, especially hearing some of the comments; that we go through that second year. I'm a big fan of doing it right the first time, and I think this gives us the opportunity to do so.

CHAIRMAN WHITE: Rene, would you like to clarify?

MS. ZOBEL: Sure. Just a clarification that in eastern Maine, it is very common for us to have no samples or one sample, it is very, very challenging to get samples in eastern Maine. That closes on the default every year as a result.

MR. STOCKWELL: Rene covered my issue. Adam, there is essentially, some years there is just plain no fishing down there.

CHAIRMAN WHITE: Any other comments? Are we ready to vote, do you need a caucus time? Seeing no heads nodding, are we set to vote? **Okay we are voting on move to substitute, implement second year of the pilot program for spawning closures in Area 1A. Motion by Mr. Nowalsky, seconded by Mr. Train, all in favor raise your right hand, opposed same, null votes, abstentions; motion fails, 2,3,1,1.** Okay, we're back to the main motion.

MR. NOWALSKY: Point of order, Mr. Chairman.

CHAIRMAN WHITE: Go ahead.

MR. NOWALSKY: Three, 2, 1, 1, doesn't that pass?

CHAIRMAN WHITE: I'm sorry, 2,3,1; sorry. Okay main motion, do you need that read, Dennis? **All in favor of the main motion, please raise your**

**right hand, opposed, null votes, abstentions; 6,0,0, it passes.**

### **CONSIDER APPROVAL OF 2017 FISHERY MANAGEMENT PLAN REVIEW AND STATE COMPLIANCE**

CHAIRMAN WHITE: Now, review and populate the Atlantic Herring Advisory Panel. Sorry, I jumped down one. Consider Approval of 2017 Fishery Management Plan Review and State Compliance, Ashton.

MS. HARP: This will be very quick. This is the FMP Review and State Compliance for the 2015 and 2016 Atlantic herring fishing years. A quick review of spawning stock biomass, the 2015 stock assessment update indicated Atlantic herring is not overfished and overfishing is not occurring.

The next assessment will be next year, and that will be to inform the next specification package coming from the Council. Just an overview of the Atlantic herring commercial landings, I know I've gone into this in far more detail in Draft Addendum I. But just as an overview of the stock wide ACL for the 2016 through 2018 fishing years is 104,800 metric tons or 230 million pounds. The Area 1A Sub-ACL is 30,300 metric tons, which is adjusted for underages or overages in the prior fishing years.

For the fishing effort, in terms of landings, as you can see here the purse seine and mid-water trawl vessels account for on average 99 percent of Atlantic herring landings in Area 1A. Depending on the season the gear ratio will be different. In the Trimester 2, June through September, it is primarily purse seine vessels accounting for 99 percent of the landings, whereas in Trimester 3 it is a little bit more weighted out; where it's 55 percent of the landings are from mid-water trawl vessels.

Just an overview of management up to 2017, as you can see the variety of the fisheries management plan in 1993 all the way up to

Amendment 3, which was passed last year. Now this year it is no longer Draft Addendum I, is now Addendum I that has modified the days-out program moving forward. The Plan Review Team reviewed all of the compliance reports from every state within the management unit from Maine down to New Jersey. The focus was to make sure the states implemented Amendment 3 last year. The Plan Review Team found that all states have regulations in place that meet or exceed the fisheries management plan. There was one request for de minimis status from New York.

The PRT found that they did meet the de minimis requirement that the landings have averaged 0.6 percent of the coastwide landings since 2014. With that being said, the PRT recommends approving the fisheries management plan and approving New York's de minimis request. That's it.

CHAIRMAN WHITE: Any questions for Ashton? Is there a motion? Jim Gilmore.

MR. GILMORE: **Yes, Mr. Chairman, I would like to move that we accept the FMP Review and grant de minimis status for New York.**

CHAIRMAN WHITE: **Second, Terry Stockwell. Is there any objection to the motion? Seeing none; it passes unanimously.**

#### **REVIEW AND POPULATE THE ATLANTIC HERRING ADVISORY PANEL**

CHAIRMAN WHITE: Ashton, on repopulating the Atlantic Herring Advisory Panel; oops sorry, Tina.

MS. TINA L. BERGER: Hi there, I'll be quick as well. Just letting you know that we have had very poor attendance in the Atlantic Herring AP the past couple of years. As you'll see from the memo that is in your briefing materials, we have 5 out of 12 active members. We would ask you to look at those materials.

Look at the attendance records for those folks that we provided you some recommendations about who might be replaced. Of course it's up to you whether you want to keep them on, but we really would like to have a fully functional AP at some point. Thank you.

CHAIRMAN WHITE: Hope the states will work on this, because we definitely need a full advisory panel working on these issues.

#### **OTHER BUSINESS**

CHAIRMAN WHITE: Other business, Terry Stockwell.

MR. STOCKWELL: With P.K. at the table today, I thought it would be helpful to have some section discussion on the RSA Program, in the spirit of co-management with the Council; particularly concerning the notification process that the states received concerning when and where the RSA fishing is going to occur.

Speaking for the state of Maine, and I think as well for New Hampshire. We're not getting a lot of collaboration. When the Council sits again to renew its annual specs and discusses the RSA Program, I'm hoping that there will be some additional ASMFC input into it as well.

CHAIRMAN WHITE: Would you suggest a letter coming from the Commission?

MR. STOCKWELL: Thank you for your generous offer to write it.

CHAIRMAN WHITE: Any objection of the Section sending a letter to the Council, or actually, does that go to the Policy Board? Recommend the Policy Board a letter. Any objection to that? Seeing none; we will do that. Is there anything else under other business? David.

DR. PIERCE: I just wanted to highlight the use of the RSA fish, how we put it to good use. Port sampling, monitoring spawning condition, move along strategies, to avoid bycatch of river herring and the like. We've had some great cooperation

for the sea herring fishing industry to accomplish all those very important objectives; so the research set-aside has been of great benefit to assist all of us with better management of the fishery.

**ADJOURNMENT**

CHAIRMAN WHITE: Anything else under other business? Seeing none; any objection to adjourning? Seeing none; we're adjourned.

(Whereupon, the meeting was adjourned at 2:30 o'clock p.m., May 8, 2017.)