

Atlantic States Marine Fisheries Commission

Atlantic Herring Section

*August 5, 2014
8:00 – 9:30 a.m.
Alexandria, 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 (*T. Stockwell*) 8:00 a.m.
2. Section Consent 8:00 a.m.
 - Approval of Agenda
 - Approval of Proceedings from May 2014
3. Public Comment 8:05 a.m.
4. Review of Public Comment Summary to Draft Amendment 3 Public Information Document (*M. Yuen*) 8:15 a.m.
5. Draft Amendment 3 **Action** 8:50 a.m.
 - Provide Guidance to Plan Development Team for Draft Amendment 3 (*T. Stockwell*)
6. Review and Populate Advisory Panel Membership (*M. Yuen*) 9:20 a.m.
7. Other Business/Adjourn 9:30 a.m.

MEETING OVERVIEW

Atlantic Herring Section

August 5, 2014

8:00 - 9:30 a.m.

Alexandria, Virginia

<p>Chair: Terry Stockwell (ME) <i>Assumed Chairmanship 10/13</i></p>	<p>Technical Committee Chair: Renee Zobel</p>	<p>Law Enforcement Committee Michael Eastman</p>
<p>Vice Chair: Ritchie White (NH)</p>	<p>Advisory Panel Chair: Jeff Kaelin</p>	<p>Previous Board Meeting: May 12, 2014</p>
<p>Voting Members: ME, NH, MA, RI, CT, NY, NJ (7 votes)</p>		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from May 12, 2014

- 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.

4. Review of Public Comment Summary to Draft Amendment 3 PID (8:15 – 8:50 a.m.)

Background

- The Atlantic Herring Section approved the Public Information Document for Draft Amendment 3 for public comment. The PID contains background information and management questions on the following issues: spawning areas efficacy, fixed gear set-aside, gear declaration, and empty fish hold provision. The comment period ended on July 10, 2014 (**Briefing Materials**).

Presentations

- Public Comment Summary (M. Yuen)

5. Draft Amendment 3 (8:50 – 9:20 a.m.) Action

Presentations

- Discussion of guidance to the Plan Development Team in drafting management options for Draft Amendment 3 by T. Stockwell

Board Action for Consideration

- Consider development of Draft Amendment 3.

6. Review and Populate Advisory Panel Membership (9:20 - 9:30 a.m.)

Background

- The Atlantic Herring AP has vacancies.

7. Other Business/Adjourn

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

**Crowne Plaza - Old Town
Alexandria, Virginia
May 12, 2014**

For Board Approval

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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1. **Motion to approve agenda** by Consent (Page 1).
2. **Motion to approve proceedings of February, 2014** by Consent (Page 1).
3. **Move to approve the PID with the changes made today** (Page 7). Motion by Pat Augustine; second by Bill Adler. Motion carried (Page 9).
4. **Motion to adjourn** by Consent (Page 10).

ATTENDANCE

Board Members

Rep. Walter Kumiega, ME (LA)	Robert Ballou, RI (AA)
Terry Stockwell, ME, proxy for P. Keliher (AA)	Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)
Steve Train, ME (GA)	Dave Simpson, CT (AA)
Doug Grout, NH (AA)	Rep. Craig Miner, CT (LA)
G. Ritchie White, NH (GA)	James Gilmore, NY (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Pat Augustine, NY, proxy for Sen. Boyle (LA)
Rep. Sarah Peake, MA (LA)	Emerson Hasbrouck, NY (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Tom Baum, NJ, proxy for D. Chanda (AA)
Bill Adler, MA (GA)	Chris Zeman, NJ, proxy for T. Fote (GA)

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

Ex-Officio Members

Renee Zobel, Technical Committee Chair

Staff

Robert Beal	Kirby Rootes-Murdy
Toni Kerns	Melissa Yuen
Mark Robson	

Guests

Raymond Kane, CHOIR	Jeff Kaelin, Lunds Fisheries
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The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crown Plaza Hotel Old Town, Alexandria, Virginia, May 12, 2014, and was called to order at 10:00 o'clock a.m. by Chairman Terry Stockwell.

CALL TO ORDER

CHAIRMAN TERRY STOCKWELL: Good morning, everyone. I'll convene the Atlantic Herring Section. I would like to welcome Emerson Hasbrouck as the new governor's appointee and re-welcome Pat Augustine as a meeting proxy for Senator Boyle.

APPROVAL OF AGENDA

CHAIRMAN STOCKWELL: We're going to go right into business and approval of the agenda. Are there any other issues to add to today's agenda? Seeing none; consider the agenda approved.

APPROVAL OF PROCEEDINGS

CHAIRMAN STOCKWELL: Approval of the proceedings from February 2014; are there any edits or changes. Seeing none; consider the proceedings approved.

PUBLIC COMMENT

CHAIRMAN STOCKWELL: We're going to go directly into public comment for items that are not on today's agenda. Is there anyone from the public who would like to address concerning Atlantic herring? Okay, seeing none, then we're going to go directly on to the update on the New England Council's Framework 4. Melissa.

UPDATE ON THE NEW ENGLAND FISHERY MANAGEMENT COUNCIL FRAMEWORK 4 ACTIONS

MS. MELISSA YUEN: I will now provide a review of the Framework 4 alternatives adopted by the council during its meetings on April 22nd and 23rd. Framework 4 was developed to

address disapproved measures from Amendment 5. This is the dealer weighing reporting requirements and net slippage.

For dealer weighing and reporting, the council selected Alternative 2, Option C; fish holds on limited access herring vessels are required to be empty before leaving the dock when declared into the herring fishery. A waiver may be issued for instances when there are fish in the holds after inspection by an appropriate law enforcement officer.

This alternative would only apply to Category A and B permits. The intent is for waivers to be issued for refrigeration failure and non-marketable reported fish. The council also adopted Alternative 3 for third party catch verification to apply to limited access pairing vessels that store herring in the fish holds.

Vessels are required to certify capacity of the fish hold and provide this information to NMFS. Vessels retain a customized measuring stick, which is weighted, on board. A NMFS-approved observer would dip the stick at the vessel's first point of landing to estimate the weight of total catch on board for volume metric conversion to pounds of Atlantic herring.

For slippage, the council selected Alternative 4, move-along miles away option. A vessel would have to move 15 nautical miles for the remainder of its trip for slippage due to safety, mechanical failure and spiny dogfish. The council also approved Option B for trip termination for all other observed slippage events to Category A and B permits. For clarification, gear damage would also be part of mechanical failure.

The council decided that catch not brought on board due to falling out of gear would not be subject to additional slippage measures. Also, a vessel owner must submit notification of slippage events via the vessel monitoring system. This requirement would facilitate enforcement of Category A and B vessels. This concludes my overview of the council's adopted alternatives for Framework 4. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Are there any questions? Ritchie.

MR. G. RITCHIE WHITE: Great report as always, Melissa. When you said that a vessel could leave with herring in the hold if it was non-marketable; do you know if there is a definition of what non-marketable meant; in other words, if they just didn't get the price they wanted?

MS. YUEN: I think it could be price or also if they harvested too much.

CHAIRMAN STOCKWELL: In terms of the chairman of Herring Committee, Doug.

MR. DOUGLAS E. GROUT: The answer is, no, there is no definition of what non-marketable was.

CHAIRMAN STOCKWELL: But the intent of it was that it was specific to unique problems such as RSW failures. Jeff.

MR. JEFFREY KAELIN: I think the issue there, Ritchie, was that if you have an RSW failure and the product is not able to be sold because of the quality of it. There is really very limited opportunities to put that stuff in landfills anymore; so there would be an opportunity for a vessel owner to demonstrate that the product was of poor quality and needed to be dumped at sea. That would be the only exception I think as it went down.

MR. WILLIAM A. ADLER: Now that was approved apparently by the council as a final thing and it goes now to NMFS; is that how that works?

CHAIRMAN STOCKWELL: That's correct.

MR. ADLER: Okay, now in our amendment; don't we have – one of the things in the amendment is that the hold must be clear before the boat sails again; isn't that in our amendment?

CHAIRMAN STOCKWELL: And that is our next agenda item.

MR. ADLER: I know, but I mean isn't contradictory?

CHAIRMAN STOCKWELL: One of the questions, as you see, that came from the PDT is what do we do about a unique situation such as RSW failures; so we'll have that –

MR. ADLER: So we will have that discussion.

CHAIRMAN STOCKWELL: We will have that discussion as soon as Melissa is done with her presentation. Are there any other questions about Framework 4? Seeing none; we are on to the PID, Melissa.

REVIEW OF DRAFT PUBLIC INFORMATION DOCUMENT FOR AMENDMENT 3 FOR PUBLIC COMMENT

MS. YUEN: Now I will now review the draft public information document for Amendment 3. In February 2014 the Section initiated an amendment for the four issues. These are spawning area efficacy in Area 1A; fixed gear set-aside; gear declaration; and empty fish hold provision. The first is the timeline for development of the amendment.

The plan development team has drafted the public information document for the Section's consideration for public comment. At the bottom, the earliest in which Amendment 3 may be implemented is February 2015. Okay, first a few corrections to the draft PID. On Page 4 it should say, "the start of a season" under management issues; and then on Page 13, that table should be Table 2.

The first issue is spawning area efficacy. Currently there are three spawning areas in Management Area 1A, which is inshore Gulf of Maine. The FMP requires a minimum of two 100-fish samples for two length categories by the specified dates for each area. A closure begins one week after a significant amount of spawning herring is detected in each spawning area.

If sufficient samples are not available, then an area will close on its default closure date with

the closure to last four weeks. In recent years the analysis of commercial samples suggests that sea herring may be experiencing different patterns of spawning activity than expected. In the Eastern Maine Spawning Area no spawning herring were encountered by the Maine Department of Marine Resources. There was sufficient sampling but only juveniles and non-mature adults were detected.

This area was eventually closed approximately two weeks after the default date. In Massachusetts/New Hampshire area anecdotal information has suggested that there may be disparity in the spawning season of fish collected from the northern portion of this area versus the southern portion.

The plan development team looked into this issue with the Massachusetts/New Hampshire spawning area. It reviewed the gonadosomatic index, GSI, data from Massachusetts and Maine DMR sampling programs. Both programs track each other well; and the combined dataset is well suited to continue to inform the Massachusetts/New Hampshire closure.

The PDT finds that the current spawning area boundary for Massachusetts and New Hampshire area to be adequate and further sub-areas are not warranted at this time. However, it does recommend extending the spawning closure by at least two weeks in the Massachusetts/New Hampshire area. This is due to the gear bias in the spawning area's vertical stratification.

This diagram illustrates the vertical distribution of sea herring during spawning. The spawning layer occurs near the bottom in the black while the spent fish are towards the top of the water column. Since spawning analysis is based on commercial samples primarily caught by the midwater trawl and purse seines, there is a gear bias towards the non-spawning fish.

Therefore, the PDT believes that a longer closure period by two weeks may be warranted to protect spawning fish. The management questions in the PID are is the existing spawning closure dates appropriate for protecting

spawning herring; is the default four-week spawning closure sufficient to protect spawning herring. If spawning herring is not detected with sufficient sampling, should there be a closure? Is commercial sampling sufficient for a spawning analysis?

The second issue is fixed-gear set-aside provision. Amendment 2 established a 500 metric ton set-aside in the Area 1A's total allowable catch for fixed-gear fisheries operating west of Cutler. This set-aside is available to fixed-gear fishermen in Area 1A until November 1. After then, any unused set-aside will be made available to the remainder of the herring fleet in Area 1A until the directed fishery closes.

Statement of the problem: Fixed-gear fishermen have requested that the unused fixed-gear set-aside would not be rolled into the Area 1A sub-quota on November 1; and that is because they expect a demand for bait in the lobster fishery through the end of the calendar year. The plan development team noted that historically the sea herring migrate off the coast of Maine by November; so they're not available in November and December.

Fixed-gear landings have not fully utilized the set-aside in the past ten years. In fact, there have been no landings after November 1 since 1993. If fixed-gear set-aside is exceeded, then can still access the total area 1A sub-quota. At this time the PDT finds that there is no biological basis for or against addressing this fixed-gear set-aside provision.

The PDT also wants to note that if adjusted, the state and federal rules would be inconsistent. The management questions are should portions of the fixed-gear set-aside that are not harvested by November 1 be made available to all fishing fleets in Area 1A for the remainder of the calendar year? Should the Atlantic Herring Section decide on whether the fixed-gear set-aside will be available to the Area 1A sub-quota during the specifications' process each year?

Moving on to the third issue, gear declaration; the proposed measure would be to require vessel

owners to declare their intended fishing gear prior to the beginning of the season. Having knowledge about fishing effort – for example, the number of vessels and which gear – in advance of the fishing season may improve on projections and allow managers to set appropriate regulations to meet the needs of industry throughout the season and reduce the likelihood of an early closure.

It can also provide an incentive for fishermen to plan fishing activities prior to the start of each year. The plan development team discussed the feasibility and benefits of gear declaration and concluded that a requirement to declare gear in advance of a fishing season is not recommended at this time.

First, a system by each state would be set to collect information by either the states, NOAA Fisheries, or both on intended fishing effort and enforce compliance. There must also be consideration for fishermen who may wish to fish with multiple gears or in multiple areas.

Furthermore, the PDT does not believe this information is necessary to make projections for harvest control measures such as days out when managers traditionally hold a public hearing to collect industry input before the season; and they have the ability to call additional meetings to address the harvest control measures to respond to the fishery performance and needs.

In order for this information to be useful for projections, vessels would have to declare specific gear type and area well in advance of each trimester with no allowance for modifications in the declaration. Vessels are already reporting the area and gear type through the IVR or VMS system for each trip. With the annual variation and adjusted catch rates based on weather and fish availability, there is no guarantee declarations will make the projections any more or less accurate.

The management questions are should there be a requirement for vessel owners to declare their intended fishing gear in advance of a quota period? When and how will vessel owners declare their intended gear? Who will enforce

compliance to the gear declarations? What happens when vessel owners decide to change their gear of choice before the trip? Will vessel owners be able to declare more than one gear and area?

The fourth issue is the requirement for vessel owners to empty the hold of fish prior to departing for a trip. This is the one that the council has selected in its Framework 4. The background information is this measure is intended to address concerns about the discard of unsold herring at sea; and it is also intended to discourage dumping of unsold herring that may result from lower sales than expected and avoid the mixing of fish from multiple trips.

This is from the industry; that there is concern that fish from multiple trips can be mixed the holds are not completely empties. This has the potential to compromise landings used to inform harvest control measures and bycatch avoidance programs. Furthermore, leaving fish in the vessel's hold prevents portside samplers from observing the entirety of the trip, which can hinder the operation of bycatch monitoring and avoidance programs.

In its Framework Adjustment 4, the New England Fishery Management Council approved a requirement for vessel holds to be empty of fish prior to leaving the dock. This includes a waiver which may be issued for instances when there are fish in the holds after inspection by an appropriate law enforcement officer.

This alternative applies to Category A and B boats and is intended for refrigeration failure and non-marketable reported fish. The plan development team recognizes that fishermen may have surplus catch that cannot be sold and is challenged to dispose of. The proposed requirement to empty vessel holds of fish may be an incentive to curb wasteful fishing practices and harvest more efficiently to meet market demand.

This provision could eliminate the practice of keeping fish in the hold from one trip to another, which would mix the catch from multiple trips. The PDT does note that there needs to be

considerations for enforcement, unforeseen events that make it impossible to sell fish and vessels that land at multiple ports.

The management questions are should vessel's fish hold be emptied prior to departure for an Atlantic herring fishing trip? What are the enforcement considerations? What considerations should be made unforeseen circumstances that hinder or prevent sales of the fish, such as refrigeration failure and non-marketable reported fish? Finally, there is one last question for other issues. This is to provide an opportunity for members of the public to suggest additional issues for consideration in the amendment. Thank you, Mr. Chairman.

CHAIRMAN STOCKWELL: Thank you, Melissa, for your usual succinct and interesting report. Before we go into questions and discussion; I do want to frame the discussion by noting that the consideration of these issues were as a result of a request from Maine industry members, both harvesters and dealers. I do have one question, Melissa, before I open it up to the section; and that is Page 14 of the draft document.

Just for my clarification and that of the other Section members, we're talking about the efficacy of the spawning areas and the statement of the problem; and then we go into considerations of the plan development team; so are the considerations of the plan development team specific to the new Hampshire/Massachusetts closure only or is it for all three spawning areas?

MS. YUEN: At this time the PDT has only reviewed the Massachusetts/New Hampshire area.

DR. DAVID PIERCE: Thank you, Melissa. It is a good document; however, I need to clarify the plan development critique of the different issues that we may decide to bring forward in this amendment. I think the industry would find it difficult to understand if we propose something – if we put it out as a PID with the plan development team saying there is no problem.

It is hard to reconcile that. It is a bit embarrassing, so I need to make sure I understand and the Section needs to understand where do we have possible inconsistencies, meaning we're going to ask for comment on some issues or some potential strategy, but the plan development team has already told us there is no problem.

I'm going to go through this and I'd like you to tell me where the plan development team has said don't bother. On the spawning area efficacy, on Page 10 of the document, consideration for the plan development team, it seems to indicate that the plan development team is saying that there really is no issue with regard to the New Hampshire and Massachusetts spawning closure. Is that the case?

MS. YUEN: The PDT finds that there were no issues with the boundaries; but it recommends extending the closure by two weeks. The issue is with sampling being able to actually detect where the spawning fish are since the spawning layer is located on the bottom and purse seine and midwater trawls tend to fish near the middle or top of the water column.

DR. PIERCE: Okay, good, that's an important point and I'm glad you emphasized that. Frankly, that figure that you showed was very instructive regarding the different locations within the water column where the fish in different spawning condition can be found. All right, so an extension of the spawning closure, Massachusetts/New Hampshire, that is one of the suggestions the plan development team is offering up.

On the fixed-gear set-aside on Page 12, it seems to indicate that we need not address that; it really isn't an issue. I'm looking at the end of the first paragraph under considerations by the plan development team; and then the second short paragraph after that. Has the plan development team concluded that it really isn't an issue? They're recommending we don't address it.

MS. RENEE ZOBEL: The recommendation was that biologically either way is fine. There is no biological basis one way or the other. This I

believe was industry-driven; so whether there may be socio-economic, political reasons for it, we're not sure; but as far as biologically, we're neutral. There is no positive one way or the other biologically.

DR. PIERCE: Okay, so it still is an issue that we should bring to public hearing. All right, on the gear declaration, once again the plan development team is indicating – this is on the bottom of Page 13 – that we really don't need a gear declaration in order for us to make projections for harvest control measures; is that what the plan development team is saying? If that's the case, is the plan development team recommending we don't move forward with a gear declaration?

MS. ZOBEL: This was discussed and the consensus is that due to the nature – just to be I guess wary about it. In order for it to help us do our projections, in order to better inform the setting of days out, that type of thing, it has to be done in an inflexible way. It would have to be set before the trimester.

A vessel would have to declare and they would have no leeway to change that declaration for area and the gear. That would be the way it could potentially help by giving the variation in catch rates and whether fish availability – there is no guarantee that would happen; and because we can see the vessels come through, they have to report daily, anyway, on IVR and VMS; and the managers have the ability to react quickly to it. That is where all those comments came from, if that makes sense.

DR. PIERCE: Okay, and the empty fish hold provision; it doesn't seem as if the plan development team has any objections to that. There are no concerns raised by the plan development team on that issue; correct? All right; I'm fine, Mr. Chairman.

MS. ZOBEL: The fish hold; there was no objection that, no.

MR. GROUT: I was a little bit curious about the recommendation that there may be a gear bias going on here. Is this to say that when we take

biological or spawning samples that purse seiners and midwater trawls are not – there is no spawning fish being found in those samples; that all those positives where they met the spawning trigger came all from bottom trawls?

MS. ZOBEL: GSI samples were collected from all gear types in the herring fishery. In fact, there is a figure that is not shown where you can see post-closures there are spawning samples collected for midwater trawls in that figure.

MR. GROUT: Just a follow-up; and so the issue here is that you're trying to say that because of the fact that they're midwater – both of those gears are pelagic gears, that they may not collect spawning fish quite as readily as a bottom trawl fisherman; and so some of the samples at the end of the spawning – after we've come off the spawning period may not – because the bottom trawlers aren't generally fishing in October and November up in Area 1A and our only source of samples is primarily midwater trawls, that they may not always catch the spawning that is going on at that period of time?

MS. ZOBEL: Right; there is a statement made that there were potentially gear biases. It is just the way that the herring stack up in the water column and that sampling can't always happen from all stages of water.

MR. PATRICK AUGUSTINE: Good report. Has the advisory panel or anyone from the advisory panel weighed in on any of the comments at this early stage?

MS. YUEN: No; at this point just the plan development team.

MR. ADLER: Mr. Chairman, I know this is only a PID, which goes to an amendment, but I do see that there is going to be on gear declaration, the management questions were good questions, because, boy, I can hear it now – you mean I can go in but I can't go in; I have to declare, but what if I change my mind, and all this type of stuff is going to happen. I suppose it is all right going to the PID stage with this, but I just caution and I have concerns about this part about declaration. If you look at the four

management questions, I think they're very good questions that we really need to look hard at. Thank you.

MR. WHITE: To follow up on what Bill is saying; I know we always struggle with the days out in our days-out meeting trying to figure out what boats are going to be and what type of fishery so we can project going forward; but to date it hasn't caused us a problem. We're also concerned that it might, but so far it hasn't. I guess I would have some concern as Bill that we may be creating something that we don't need yet.

REPRESENTATIVE WALTER KUMIEGA: On the fixed-gear set-aside, if that wasn't rolled into the sub-quota on November 1st; what would happen to – and say some of it was used but it wasn't used by the end of the year; would it get rolled into the following year's quota or carried over into the following year or is that something that is not decided yet?

CHAIRMAN STOCKWELL: Should the Section decide to include that in the PID document; that is what we would be seeking comments on. Jeff.

MR. KAELIN: Thank you for the opportunity to comment, Mr. Chairman. On that issue, the federal plan only allows a sub-area rollover of 10 percent; so would the federal restriction become operative? In other words, if you didn't use the 295 tons, you only could rollover 29 tons under the federal plan. I think the fishermen would love to see the Section allow all of it to be rolled over if it is not used. My question is wouldn't the federal plan be operative and limit the rollover to 10 percent?

MS. YUEN: It is important to remember that the set-aside is not a quota.

MR. KAELIN: It is still fish that is not used.

CHAIRMAN STOCKWELL: I think the input from the industry – and I note it well in the document here – they're talking about traditional landings and traditional fisheries. We are seeing a number of changes and perhaps that was a

request from the industry to look at what changes are we seeing from climate that may be having fish closer to shore in northern New England during that time of the year. Doug.

MR. GROUT: From what I understand is the rollover applies to the sub-ACLs and not to the set-aside; and so it be based primarily on whether the overall sub-ACL was below it. The set-aside is really irrelevant to what the rollover is right now. Like we had an underage back in 2012; we've had I forget how many metric tons that were rolled over into 2014 for 1A this year, which make things more available for the fishery as a whole.

MR. KAELIN: We haven't had a chance to discuss this as an AP, but I'm just trying to wrap around it. In other words, the set-aside, if it wasn't utilized and the fishery had closed and everybody was out of there; that would add to the potential underage for the following fishing year based on wherever the ACL ends up then?

CHAIRMAN STOCKWELL: That's correct. Are there any other questions or comments? Pat.

MR. AUGUSTINE: Are you ready for a motion?

CHAIRMAN STOCKWELL: Go for it.

MR. AUGUSTINE: **I would like to move that the board approve the PID as presented today with any changes that were noted.**

CHAIRMAN STOCKWELL: Motion by Mr. Augustine; is there a second? Second by Bill Adler. Is there any discussion? Bill.

MR. ADLER: The last section of the PID had a section about any other issues to be brought and put on the PID; and I didn't know if anybody had mentioned anything in addition or just go with what we got here?

CHAIRMAN STOCKWELL: I haven't heard any additions. I think we're opening this up for public comment. Are there any further comments or comments from the audience?

MR. RAY KANE: My name is Ray Kane, commercial fisherman, Fishing Vessel Frenzy. Ms. Yuen, if you could go over – I believe your last statement on this PID is something acknowledging the public comment period. It was the very last statement.

MS. YUEN: Are you talking about the question on other issues?

MR. KANE: Yes.

MS. YUEN: Yes; the final question in the public information document just asks for any additional issues that the public would like to suggest for consideration in the amendment.

MR. KANE: Thank you. As you all know, I've sat in this audience for years, both here and the New England Council. Being part of the public, I would hope that this PID is transparent, thoughtful and comprehensive. It is a document going to the public and they have to be able to understand this.

I have issues about observer programs, discrepancies in numbers and how this relates to this commission is with river herring and sea herring. My final comment will be I see bullet number six. I'm just curious as to why we started discussing Nantucket Shoals and Georges Bank in August of 2012; how come this cannot be rolled into this amendment. Thank you.

CHAIRMAN STOCKWELL: Hold that thought to a public comment period. Are there any other comments from the audience? Seeing none; back to the Section. David.

DR. PIERCE: I would like to highlight a point that was just made by Ray Kane. It is not in amendment. I suspect this should not be in the amendment. It might be an issue more appropriately addressed by the River Herring Board. I'll highlight the reason why. The sea herring fishery is sampled at sea by the Federal Observer Program; and it is also sampled at portside by the Division of Marine Fisheries and Maine DMR.

Fairly recently there was one trip of herring that was landed in New Bedford where my staff estimated from the sampling of the catch dockside that approximately 145,000 pounds of haddock was landed. That obviously was of great concern because we have a haddock bycatch cap. I understand, of course, ASMFC does not deal with haddock.

However, we do deal with river herring. The observer indicated on that particular trip about 45,000 pounds was landed' so that is a huge discrepancy between what an observer reported versus what was found after the catch was sampled portside. It is understandable; many more samples are taken portside than at sea.

I raise this in the context of river herring bycatch; and that if, indeed, there can be such a great discrepancy in observer record of what was caught versus what was landed for something like haddock that is quite easy to discern from a herring, I wonder about the ability of the board to actually know what is being caught and landed by sea herring vessels when they're – how much river herring actually is being landed.

I don't have a motion to make, but I would suggest, Mr. Chairman, that this issue could be remanded to the River Herring Board for further review. I'll make what information I have available; I will make it available it to the River Herring Board and ASMFC staff. I believe we have to involve the National Marine Fisheries Service as well since this has implications. Like I said, it is not something for the amendment, but it is an issue that we need to address, especially since the public is becoming increasingly aware of it. Ray Kane, of course, made a point of it.

CHAIRMAN STOCKWELL: And I would also suggest that you make the information available to the Mid. The Shad and River Herring Committee is going to meet at the upcoming meeting in New Jersey. Doug.

MR. GROUT: When Amendment 5 to the Herring Plan was being developed, there was an analysis done by the PDT that compared dockside sampling to at-sea sampling. While

some of them did line up, there were many that there were some discrepancies between some at-sea observer and dockside sampling.

There is other information that has already been developed that could be brought in to bear here. It was one of the things where I think we struggled with ourselves because we were hoping to find out which one estimated it the best; and we didn't come to a good conclusion on that other than I think you do take more samples at dockside than at sea; so that may point to where you're more precise estimates or accurate estimates might be coming from.

CHAIRMAN STOCKWELL: Are there any final comments or questions? Jeff.

MR. KAELIN: I just have a question on the timeline on Page 1. There is no mention of an AP Review. I assume that would take place between now and July, the end of July and before the August board meeting. I would like to see the AP review specifically mentioned in that box, if that's possible.

MS. YUEN: I can definitely put that in, but the AP and the technical committee will get a chance to comment on the amendment.

CHAIRMAN STOCKWELL: Are there any final comments? Seeing none; are there any objections to the motion on the board? Seeing none; **consider the move to approve the PID with the changes made today approved.** Thank you, everyone, for some constructive dialogue.

UPDATE ON THE GEORGES BANK/NANTUCKET SHOALS STUDY

We're on to Agenda Item Number 6, an update on the Georges Bank/Nantucket Shoals Study. I will turn this over to Toni. This was an agenda issue at the NRCC meeting several weeks ago.

MS. TONI KERNS: The Herring Section had asked the Policy Board to send a letter to the New England Fishery Management Council, NOAA, as well as the Northeast Fisheries Science Center regarding the Nantucket Shoals

Spawning Study; that the technical committee had put together an overview budget and program for.

We brought it up at the NRCC meeting. Those of you that are not familiar with NRCC; it is a coordinating council that gets together with the commission, the New England Fishery Management Council, the Mid-Atlantic Council, the GARFO, as well as the Northeast Fisheries Science Center.

We brought up the spawning study to see if there was a way that we could coordinate and come up with funds for the project. Currently what we are going to do is have the Northeast Fisheries Science Center read over the technical committee's proposal for a study. They are going to see if there is any additional sampling that can be done in the current sampling programs that are going on through the Northeast Fisheries Science Center; and also see if they have any additional suggestions to the study and get back to the commission prior to our August meeting.

We will have a more thorough report on their suggestions for this study, what additional observers or additional sampling that can go on and then get back to the Section; and then we can go forward with a plan from there – so report out from NRCC at the August Section Meeting.

CHAIRMAN STOCKWELL: And I would only add that the NRCC was provided with a complete copy of the correspondence from the work that was generated by our technical committee. Are there questions for Toni? Sarah.

REPRESENTATIVE SARAH K. PEAKE: Toni, thank you for your follow-through on that and for pursuing those steps. I saw in the packet of materials that there was a letter sent to the New England Council. Have we received a response from them or would that response have been encapsulated with what happened at the NRCC Coordinating Committee Meeting?

MS. KERNS: I believe that response would be encapsulated with the Coordinating Committee. We sent them a letter to let them know that we were going to be bringing up the issue at the Coordinating Council Meeting just to give them a heads-up so they wouldn't be surprised.

REPRESENTATIVE PEAKE: Thank you very much. I'll wait until August for the next installment, the next chapter in this book. Toni and I had a conversation before the meeting earlier today and, of course, it seems like what all this boils down to is finding the funding to make it happen. I don't know what rocks we can turn over to find some funding.

I have to say since our conversation this morning, I have had the little musical ditty running through my head "Money Makes the World Go Round". In this case I think money makes the research go round; so we'll continue to pursue that. Again, thank you for your consideration and efforts.

CHAIRMAN STOCKWELL: Are there any other questions for Toni? Before we go to other business, I just want to check in with David and Doug. Because this PID is 1A specific, you are interested in a public hearing? Okay, the three of us will work Melissa offline and set up the dates and we can get them published.

OTHER BUSINESS

CHAIRMAN STOCKWELL: Is there any other business to come before the Herring Section today? David.

DR. PIERCE: Well, not so much other business, but I wanted to point out that with regards to the concern that Sarah has expressed and we have put in the letter that was sent to Tom Nies about the importance to protect Georges Bank Herring during the spawning season; and I mentioned earlier on the catch of haddock – maybe it is an anomaly; maybe not – differences in at sea versus port sampling.

There is a lot of haddock out there on Georges Bank and this bears watching in that it is possible that the Georges Bank Haddock Cap might be caught relatively early this year; May 1

being the start of the season; and that would mean that we'd have a de facto spawning closure. Again, it bears watching. Hopefully, the midwater trawl boats, those other boats are able to avoid the haddock so the cap is not taken; but it very well could happen.

MR. KAELIN: I just wanted to make a comment about that particular incident. There is a new operation in the fishery and one particular individual who was operating in a way that is not traditional in the fishery; that guy is going to the Azores to run one of those boats. We're happy to see him go, frankly.

ADJOURNMENT

CHAIRMAN STOCKWELL: Are there any final comments? Seeing none; the Herring Section is adjourned.

(Whereupon, the meeting was adjourned at 10:50 o'clock a.m., May 12, 2014.)

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Atlantic States Marine Fisheries Commission

**PUBLIC INFORMATION DOCUMENT
FOR DRAFT AMENDMENT 3
TO THE ATLANTIC HERRING
FISHERY MANAGEMENT PLAN**



This draft document was developed for Management Board review and discussion. This document is not intended to solicit public comment as part of the Commission/State formal public input process. However, comments on this draft document may be given at the appropriate time on the agenda during the scheduled meeting. Also, if approved, a public comment period will be established to solicit input on the issues contained in the document.

*ASMFC Vision Statement:
Sustainably Managing Atlantic Coastal Fisheries*

**Approved for Public Comment
May 2014**

**The Atlantic States Marine Fisheries Commission seeks your comment
on the management of Atlantic Herring**

The public is encouraged to submit comments regarding this document during the public comment period. Comments will be accepted until **5:00 PM (EST) on July 10, 2014**. Regardless of when they were sent, comments received after that time will not be included in the official record. The Atlantic Herring Section will consider public comment on this document when developing the first draft of Amendment 3 to the Atlantic Herring Fishery Management Plan.

You may submit public comment in one or more of the following ways:

1. Attend public hearings held in your state or jurisdiction.
2. Refer comments to your state’s members on the South Atlantic State-Federal Fisheries Management Board or South Atlantic Species Advisory Panel, if applicable.
3. Mail, fax, or email written comments to the following address:

Melissa Yuen
1050 North Highland St., Suite 200 A-N
Arlington, VA 22201
Fax: (703) 842-0741
myuen@asmfc.org (subject line: Atlantic Herring PID for Draft Amendment 3)

If you have any questions please call Melissa Yuen at (703) 842-0740.

Timeline for Completion of Proposed Amendment 3 to the Atlantic Herring FMP

	February 2014	Section tasks the Plan Development Team to develop Public Information Document
	May 2014	Section receives the PID and considers approval for public comment
Current Step →	May – July 2014	Public Comment on the PID
	August 2014	Management Board reviews PID for public comment, considers initiation of Draft Amendment. PDT will develop amendment with input from TC and AP.
	October 2014	Management Board reviews Draft Amendment for public comment
	November 2014 – January 2015	Public comment on Draft Amendment
	February 2015	Management Board reviews and approves Amendment

**Atlantic States Marine Fisheries Commission
Atlantic Herring
Draft Public Information Document for Amendment 3**

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**Atlantic States Marine Fisheries Commission
Public Information Document for Draft Amendment 3
to the Atlantic Herring FMP**

Introduction

The Atlantic States Marine Fisheries Commission (Commission) is developing a draft amendment to the Interstate Fishery Management Plan (FMP) for Atlantic Herring, under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Management authority for this species from zero to three nautical miles offshore, including internal state waters, lies with the Commission, and is promulgated through the Coastal States. Management authority in the Exclusive Economic Zone from 3-200 miles offshore lies with the Secretary of Commerce through a federal FMP coordinated by the New England Fishery Management Council (NEFMC).

Management Issues

In February 2014, the Commission's Atlantic Herring Section initiated an amendment to provide further protections to Atlantic herring, particularly during spawning events. The Section raised concerns about the efficacy of spawning area regulations in the inshore waters of Gulf of Maine (GOM), known as Management Area 1A (Figure 1). Specifically, the Section is concerned the default closing dates for and possible locations of the three spawning areas are not appropriate to the actual spawning events. Furthermore, the Section wished to address industry needs by reconsidering the rollover provision for the fixed gear set-aside. To better inform management of fishing effort, the draft amendment would propose an option requiring vessel owners to declare the intended gear before the start of a season. The amendment will also propose a requirement for fish holds must be empty of fish prior to leaving the docks for a fishing trip; this measure is intended to fully account for catch and bycatch in the Atlantic herring fishery and prevent dumping of unsold herring at sea.

Purpose of the Public Information Document

The purpose of this document is to inform the public of the Commission's intent to gather information concerning the Atlantic herring fisheries and to provide an opportunity for the public to identify major issues and alternatives relative to the management of this species. Input received at the start of the amendment development process can have a major influence in the final outcome of the amendment. This document is intended to draw out observations and suggestions from fishermen, the public, and other interested parties, as well as any supporting documentation and additional data sources.

To facilitate public input, this document provides a broad overview of the four issues identified for consideration in the amendment, as well as background information on the Atlantic herring population, fishery, and management. The underlying questions for public comment are: **“How would you like the Atlantic herring fishery and population to look in the future? How can Atlantic herring be protected during its reproductive seasons?”** The Commission is looking for both general comments on the Atlantic herring management in state waters and/or any comments specific to the issues listed in this document.

ASMFC's Amendment Process and Timeline

The publication of this document and announcement of the Commission's intent to develop Amendment 3 to the Atlantic Herring FMP is the first step of the amendment development process. Following the initial phase of information gathering and public comment, the Commission will evaluate potential management alternatives and the impacts of those alternatives. The Commission will then develop a draft amendment, incorporating the identified management alternatives, for public review. Following the review and public comment, the Commission will specify the management measures to be included in the amendment, as well as a timeline for implementation.

This is the public's opportunity to inform the Commission about changes observed in the fishery, things the public feels should or should not be done in terms of management, regulation, enforcement, research, development, enhancement, and any other concerns the public has about the resource or the fishery. In addition, this is the public's chance to present reasons for the changes and concerns for the fishery.

A tentative schedule for the completion of Amendment 3 is included at the beginning of this document. Please note these dates are subject to change.

Background on Interstate Atlantic Herring Management

In 1983, an Interstate Atlantic Herring Management Plan (FMP) was adopted by the states of Maine, Massachusetts, New Hampshire, and Rhode Island and implemented a series of spawning closures. In 1993 the Atlantic States Marine Fisheries Commission (Commission) adopted the FMP to address the growth of the herring resource and interest in Internal Waters Processing (IWP) operations.

The U.S. Atlantic herring fishery is currently managed as a single stock with four management areas through complementary FMPs by the Commission and New England Fishery Management Council (NEFMC). Both FMPs provide a process for determining annual specifications for the fishery. The management program relies on an overall total allowable catch (TAC) for state and federal waters with effort control measures to avoid overfishing the resource. The TACs were developed for specific management areas to reflect the current state of knowledge concerning migratory behavior and mixing rates of the various sub-components of Atlantic herring. The Commission's Atlantic Herring FMP has been revised with two amendments and subsequent addenda. Management changes since Amendment 2 follows:

Amendment 2's (March 2006) essential management components are consistent with NOAA Fisheries' Amendment 1 (final rule published in March 2007). These provisions include identical management area boundaries, joint TAC specifications setting process between NEFMC and ASMFC, and closure of an area when 95% of TAC is harvested and reduction of the possession limit to a 5% bycatch allowance.

Section 5.1.1.1 of Amendment 2 to the Interstate Fishery Management Plan for Atlantic Sea Herring lists the following state regulatory requirements:

1. Each jurisdiction must enact spawning area restrictions that are at least as restrictive or more than those in (Section 4.3);
2. Each jurisdiction shall prohibit the landing of herring from a management area or sub-area when the TAC has been attained in that area or sub-area (Section 4.3);
3. Each jurisdiction shall prohibit directed fishing for herring in state waters when the TAC has been attained in that area or sub-area (Section 4.3);
4. Each jurisdiction shall prohibit the landing of herring to an Internal Waters Processing (IWP) operation that were harvested from an area or sub-area closed to directed herring fishing (Section 4.3);
5. Each jurisdiction shall require that (daily) herring landings from fixed gear fisheries be reported on a weekly basis in order to monitor progress toward attaining the TAC (Section 4.3); and
6. Each jurisdiction shall annually provide a report on any mealing activity of herring occurring in their state, specifically, the amount in weight of herring processed into meal or like product, biological sampling results and location of catch by NMFS statistical area or Management Area.

Technical Addendum I to Amendment 2 (August 2006) was developed to clarify interpretation of the Zero Tolerance provision that prohibits any vessel from fishing for, taking, landing, or possessing “spawn” herring within a restricted spawning area except for incidental bycatch and transiting provisions.

Addendum I to Amendment 2 (February 2009) was intended to address effort in Area 1A. It includes a number of tools for the Section to use in order to maintain a steady supply of herring throughout the fishing season. States adjacent to Area 1A must set quotas, but can use bi-monthly, trimester, or seasonal quotas and can distribute quota from January – May to later on in the fishing season when the demand and price is greater—as best meets the need of the fishery. This addendum also includes measures to close the fishery when 95% of the quota allocation is harvested and the ability to roll quota into later periods in the event of an under harvest. States are also required to implement weekly reporting in order to manage quotas in a timely manner.

Addendum II (December 2010) was developed to mirror Amendment 4 of the federal Atlantic Herring FMP. It revises the specifications process and definitions to be consistent with the federal management scheme, in which specifications can be set for up to three years based on best available science. Addendum II also establishes a threshold of 95% of an area’s TAC for fishery closure and overage paybacks as accountability measures.

Addenda III and IV: Measures proposed in both addenda were not approved.

Addendum V (October 2012) clarifies and eliminates inconsistent spawning regulations among various interstate Atlantic herring FMP documents. It establishes provisions for determining

spawning events and the implementation of area closures, and increases the sampling size from two sample of 50 fish to two samples of 100 fish or more. Addendum V also includes new boundaries for the four management areas and identifies the locations of spawning areas subject to closures (Figure 1).

Addendum VI (August 2013) was developed to complement the NEFMC's Framework Adjustment 2 (final rule published in October 2013). It established new provisions and consistent management measures for the four Atlantic herring management areas. States were allowed to seasonally split sub-ACLs for each management area to benefit the fishery. If a management area's sub-quota was under-utilized in a fishing year, up to 10% of an area's sub-ACL can be carried over to the following fishing year after data is available, provided the stockwide ACL has not been caught. Addendum VI also set new triggers: a directed fishery will close when 92% of an area's sub-ACL is projected to be reached, and the stockwide fishery will close when 95% of the total ACL is projected to be reached. There is a 2,000-lb trip limit to allow for incidental bycatch of sea herring for the remainder of the fishing year. The Addendum allows for these the directed fishery closure triggers to be set through the specification process.

Description of the Atlantic Herring Resource

Status of the Stocks

The 2012 federal benchmark stock assessment (SAW/SARC 54), which considers data through 2011, determined that **Atlantic herring in Georges Bank and Gulf of Maine is not overfished, but has rebuilt, and is not experiencing overfishing.**

Stock Definition

Although there is evidence to suggest there are at least two separate biological stocks, the resource has been divided into an inshore Gulf of Maine (GOM) and an offshore Georges Bank (GB) component. Individual spawning aggregations have been identified, but quantitative data on their relative size is lacking. Intermixing among these aggregations outside of the spawning season has led to difficulties in accurately assessing the status of individual stocks.

The U.S. Atlantic herring coastal stock complex includes two distinct spawning stocks that occupy discrete areas in the Gulf of Maine and on Georges Bank/Nantucket Shoals in the summer and fall. Fish belonging to these two components, and to smaller spawning populations within each component, migrate to continental shelf waters south of Cape Cod after spawning, then move northward in the spring to summer feeding grounds north and east of the Cape before eventually returning to their natal spawning grounds. Tagging studies suggest fish from the New Brunswick, Canada weir fishery may be part of the GOM/GB complex, based on evidence of mixing. Maximum sustainable yield (MSY) reference points were estimated to be $FMSY = 0.27$, $SSBMSY = 157,000$ mt ($\frac{1}{2} SSBMSY = 78,500$), and $MSY = 53,000$ mt. Based on a comparison of the MSY reference points with the estimates of F and SSB for 2011, overfishing is not occurring and the stock is not overfished.

Spawning Stock and Total Biomass

Based on the ASAP model used in the 2012 stock assessment, the Atlantic herring spawning stock biomass (SSB) was estimated to be 517,930 mt (1.1 billion lbs) in 2011 (Figure 2). Over the time series from 1965 - 2011, SSB ranged from a low of 53,349 mt (117.6 million lbs) in 1978 to a high of 839,710 mt (1.9 billion lbs) in 1997. SSB generally declined during 1997-2010, but increased in 2011 to an estimated 1,322,446 mt (2.9 billion lbs). Total biomass ranged from a minimum of 180,527 mt (406.7 million lbs) in 1982 to a maximum of 1,936,769 mt (4.3 billion lbs) in 2009. Total biomass and SSB showed similar trends over time, but with 1-2 year lag because the total biomass includes immature recruits, while SSB characterizes mature fish only. There was a strong cohort in 2009 that accounts for the greater biomass in recent years.

Fishing Mortality

Atlantic herring's fishing mortality (F) peaked in 1971 at a rate of 0.79. Since then, the F rate remained high and began declining in the 1980s, following the trend of decreasing stock biomass, until it dropped to a historic low of 0.13 in 1994. Since then, F has remained below the F_{MSY} threshold of 0.27, with a slight increasing trend until overfishing occurred in 2009 ($F_{2009} = 0.32$). The F in 2010 and 2011 was relatively low because of the presence of a strong cohort that increased the stock biomass.

Description of the Fishery

The Atlantic herring resource occurs in waters off Canada and the United States, and fisheries exist in both countries. Based on the total catch (including discards) by the U.S. fixed gear and mobile gear and Canada's New Brunswick weir fisheries, a majority of the fish are caught by the U.S. commercial fleet (time series average of 87%).

In the U.S., the Atlantic herring fishery is predominantly commercial; recreational catch accounts for less than 1% of the overall catch. Over the time series from 1950 to 2013, annual commercial catch by the United States Atlantic herring fleet was generally flat with a slightly declining trend between 1950 through 1983, when it reached a historic low of 23,254 mt (51.3 million lbs) (Figure 3). Since then, catch has increased and peaked in 2009 with 101,859 mt (224.6 million lbs) and averaged about 69,981 mt (154.3 million lbs) (Figure 3). Annual catch averaged 82,407 mt (181.7 million lbs) from 1993, when FMP was implemented, through 2013. In 2013, catch totaled 106,375 mt (234.5 million lbs), an increase from 2012's 85,883 mt (189.3 million lbs).

Throughout the past decade, the commercial Atlantic herring industry has been consistent in terms of landing states and primary gears. Based on the 10-year average from 2004-2013, a combined 88% of total sea herring catch was landed in Maine and Massachusetts. From 2011-2013, Maine received about 50% of the total landings each year. Sea herring is primarily caught by trawl gears, which accounted for nearly 70% of total landings in the past decade, followed by purse seine for 20% of landings. Table 1 shows the primary gears (trawl and purse seine) by state from 2009-2013.

The U.S. Atlantic herring fishery is managed as four management areas: inshore Gulf of Maine (Area 1A), offshore Gulf of Maine (Area 1B), Southern New England (Area 2), and Georges Bank (Area 3). In addition to the complementary measures in the federal plan, the Interstate Atlantic

herring FMP implements specific measures for Area 1A’s fishery, which supplies bait for lobster, tuna, blue crab, and striped bass fisheries. Management measures include “days out” effort control, spawning area closures, and seasonal quota allocation. Using the annual specifications process, fisheries managers adapt these measures each year to provide herring between June and December, when demand for lobster bait is highest and fishermen can sell their herring catch for premium value.

Table 1. Atlantic herring landings by primary gears and state in metric tons. Due to data confidentiality, landings by other gears are not provided.

Year	State	Trawl	Purse Seine
2009	MA	54,544	1,214
2009	ME	8,639	19,139
2009	Other NE	1,035	369
2009	Mid-Atl	10,344	0
2010	MA	29,180	1,056
2010	ME	15,395	9,678
2010	Other NE	1,242	42
2010	Mid-Atl	5,504	0
2011	MA	24,919	492
2011	ME	23,536	18,513
2011	Other NE	461	225
2011	Mid-Atl	3,349	0
2012	MA	30,205	1,092
2012	ME	24,443	17,371
2012	Other NE	1,084	0
2012	Mid-Atl	5,725	0
2013	MA	29,677	568
2013	ME	22,243	22,248
2013	Other NE	708	0
2013	Mid-Atl	11,119	0

Issues for Public Comment

Public comment is sought on a series of issues that are being considered in Draft Amendment 3. The issues listed below are intended to focus the public comment and provide the Section input necessary to develop a Draft Amendment 3. The public is encouraged to submit comments on the issues listed below as well as other issues that may need to be addressed in Draft Amendment 3. The Commission's Atlantic Herring Section initiated this process for the purpose of protecting spawning herring and is interested in comments on the following issues: spawning area efficacy in Area 1A, fixed-gear set-aside rollover provision, gear declaration, and accurate accounting of catch and bycatch in the Atlantic herring fishery.

ISSUE 1:
SPAWNING
AREA EFFICACY

Background

Addendum V to Amendment 2 contains the comprehensive spawning regulations for Atlantic herring in Management Area 1A. Currently, there are three designated spawning areas within Management Area 1A (inshore Gulf of Maine): Eastern Maine, Western Maine, and Massachusetts/New Hampshire (Figure 1). Spawning herring are protected by closures to the fishery. To detect ripening of adult herring at the start of each spawning event, the FMP requires sampling of commercial catch no later than August 1 for the Eastern and Western Maine spawning areas, and September 1 for Massachusetts/New Hampshire.

Closure dates pertaining to spawning events are based on sufficient sampling from commercial fishing. The sufficient sample size is comprised of at least two 100-fish samples in the two length categories (i.e. greater than or equal to 28 cm and between 24 and 28 cm in length). The current regulatory language states closures in a given area will begin seven days after the determination that female herring from a specific area have reached 20% mean gonadosomatic index (GSI) for fish greater than or equal to 28 cm in length and 15% mean GSI for fish greater than or equal to 24 cm. Spawning closures last for four weeks. If catch sampling continues to detect spawning herring, then the closure will resume for another two weeks.

In the event sufficient samples are not available, then closures will begin on the following default dates and last for four weeks.

Eastern Maine	August 15
Western Maine	September 1
Massachusetts/New Hampshire	September 21

Statement of the Problem

In recent years, the analysis of commercially caught sea herring during traditional spawning seasons suggests stocks may be experiencing different patterns from expected spawning activity. The Eastern Maine spawning area was closed when no spawning herring were encountered by the Maine Department of Marine Resources (ME DMR). In 2013, the ME DMR sampled every trip during the first two weeks of August. Sufficient samples were analyzed, but the sea herring was a combination of juvenile and non-mature adult fish. In addition, the commercial samples were collected from a small spatial area and may not represent the extent of spawning schools. The area was eventually closed approximately two weeks after the default date so all spawning areas would not be closed from early to mid-September.

Anecdotal information from industry based on previous seasons suggested there may be disparity in the spawning season of fish collected from the northern portion (off Portland, Maine) versus fish caught to the south (off Gloucester, Massachusetts) of the Massachusetts/New Hampshire (MA/NH) spawning area. This prompts the question, do spawning area borders appropriately delineate spawning activity?

Considerations by the Plan Development Team

The Atlantic Herring Plan Development Team (PDT) reviewed spawning area boundaries and closure dates in the MA/NH spawning area and recommends extending the spawning closure by a minimum of two weeks. This adjustment of the closure period would better protect spawning sea herring.

Anecdotal reports from industry suggested there may be variation in the spawning season within the MA/NH area (i.e., spawning occurs earlier to the north). However, upon review of the GSI data from both the Massachusetts Division of Marine Fisheries and ME DMR sampling programs, this does not appear to be the case. In fact, both programs track each other well and the combined dataset appears well-suited to continue to inform the initiation of the MA/NH spawning closure (Figure 4). Therefore, the PDT has found the current spawning area boundaries are adequate and further sub-areas are not warranted.

Another issue remains regarding the duration of the closure period. The rules governing the spawning closure also include a mechanism to extend or re-close the area, should 25% of spawning herring be found in fishery-dependent sampling. However, there is reason to believe a substantial gear bias exists with respect to herring maturity stages;

certain maturity stages may be unavailable to specific gear types, depending upon where in the water column they operate.

Atlantic herring are a pelagic species, yet become demersal during spawning. This causes a vertical stratification of maturity stages, with spawning fish residing closest to the seafloor, and developing, spent and juvenile fish above them in sequence (Figure 5). This means the composition of maturity stages in a sample of herring is largely dependent upon the gear type (i.e., bottom trawls are more likely to collect spawning fish than mid-water trawls or purse seines). This affects scientists' ability to describe the completion of the spawning season, and calls into question the usefulness of the 25%-spawning re-closure rule. However, given the presence of some amount of spawning fish after the closure, a longer closure period may be warranted.

Management Questions

- **Are the existing provisions for spawning closure dates appropriate for protecting spawning herring? Is the default length of spawning closure (4 weeks) sufficient to protect spawning herring?**
- **If spawning herring is not detected with sufficient sampling, should there be a closure?**
- **Do the existing boundaries of each spawning area adequately protect ripe and running Atlantic herring? If not, what adjustments can be made to improve their ability to protect spawning herring (ex. delineate new boundaries)? Do the three areas reflect locations and spatial scales of distinct spawning activities?**
- **Is commercial sampling sufficient for spawning analysis?**

ISSUE 2: FIXED GEAR SET-ASIDE

Background

Amendment 2 to the Atlantic Herring FMP established that 500 mt of the Area 1A TAC is set aside for fixed gear fisheries operating in Area 1A (weirs and stop seines) west of Cutler. This set-aside is available to fixed gear fishermen in Area 1A until November 1. If the set-aside has not been utilized by the fixed gear fisheries west of Cutler by November 1, it will then be made available to the remainder of the herring fleet fishing in Area 1A until the directed fishery in 1A closes. If 92% of the Area 1A TAC has already been reached by November 1 (and the directed herring fishery in 1A is therefore closed), the set-aside will be released as part of the 5% set-aside for incidental catch in 1A (at a 2,000-lb trip limit).

The 2013 – 2015 specifications package includes a fixed gear set-aside of 295 mt. Any unused portion of this set-aside after November 1 is rolled into the Area 1A sub-total to be used by other gears. The date for this rollover was set at November 1 because historically, Atlantic herring have moved off of Maine’s coast by the end of the year.

Statement of the Problem

In recent years, Atlantic herring has been known to occur along the mid-coast of Maine through November. Fixed-gear fishermen have requested the unused fixed gear set-aside would not be rolled into the Area 1A sub-quota on November 1 in order to maintain access to a dedicated quota for the fixed gear fishery. Furthermore, fishermen expect a demand for bait in the lobster fishery through end of the year.

Considerations by the Plan Development Team

The PDT discussed the need for adjusting the fixed-gear set aside rollover provision. Historically, the fish have migrated away from the Gulf of Maine coast by November. In the past decade, fixed gear landings have not fully utilized the set aside of 295 mt (most recent 10-year average is 197.4 mt, or 67% of the set-aside) and landings after November 1 have been 0 mt (Table 2). The last year in which Atlantic herring were caught after Nov 1st occurred in 1993. Also, there have not been significant changes in the fishing behavior for sea herring or species depending upon it (ex. lobster).

Table 2: Fixed gear catches (stop seine, weir, pound net) in metric tons from Maine 2004 to 2013. Note: data cannot be parsed by month given confidentiality issues. 2013 catch data is preliminary.

Year	Jan-Oct	Nov & Dec	Total
2004	49.0	0	49.0
2005	52.8	0	52.8
2006	528.4	0	528.4
2007	391.8	0	391.8
2008	24.3	0	24.3
2009	81.1	0	81.1
2010	823.4	0	823.4
2011	23.7	0	23.7
2012	0	0	0
2013*	0	0	0
Average	197.4	0.0	197.4

The PDT noted, should fixed-gear fishermen exceed the 295 mt set-aside, it has access to the total Area 1A sub-quota. There is no biological basis for or against adjusting the rollover provision of the fixed-gear set aside, but there may be socioeconomic reasons.

Another concern with changing the rollover provision is, if implemented, there will be inconsistent set aside measures for state and federal rules.

Management Questions

- **Should portions of the fixed gear set-aside that are not harvested by November 1 be made available to all fishing fleets in Area 1A for the remainder of the calendar year? In other words, maintain the existing provision to roll over unused fixed-gear set aside into the Area 1A sub-quota.**
- **Should the Atlantic Herring Section decide on whether the fixed-gear set-aside will be available to the Area 1A sub-quota during the specifications process each year? In other words, the FMP will keep the rollover provision, but allow managers to adapt each season as necessary to meet the needs of the Atlantic herring fishery.**

ISSUE 3: GEAR DECLARATION

Background

Draft Amendment 3 proposes include an option requiring vessel owners to declare the intended fishing gear type prior to beginning of a season. This measure is intended to provide fisheries managers with an estimate of effort for each upcoming period to inform decisions on harvest control measures.

Statement of the Problem

Having knowledge about fishing effort (i.e. number of vessels and gear) in advance of a fishing season may improve on the projections and allow managers to set appropriate regulations to meet the needs of industry throughout the season and reduce the likelihood of an early closure.

Considerations by the Plan Development Team

The PDT discussed the feasibility and benefits of gear declaration and concluded a requirement to declare gear in advance of a fishing season is not recommended at this time. First, a system by each state would

have to be set up to collect information by either the states, NOAA Fisheries or both, on intended fishing effort and enforce compliance. There must be considerations for fishermen who may wish to fish with different gears and in more than one area. If fishermen intend to fish with multiple gear types or in multiple areas and declare as such, then it may not accurately reflect fishing effort.

Furthermore, the PDT does not believe this information is necessary to make projections for harvest control measures, such as “days out,” when managers traditionally hold a public meeting to collect industry input before the start of the season, and have the ability to call additional meetings to adjust harvest control measures to respond to fishery performance and needs. In order for this to be of any assistance to the projection of effort, vessels would have to declare a specific gear type and area well in advance of the each trimester with no allowance for modifications to the declaration. If vessels were to make trip declarations as they do in other fisheries, it would not improve the ability to predict catch and effort. Vessels are already reporting area and gear type through IVR/VMS systems each trip. With the annual variation in adjusted catch rates based on weather and fish availability, there is still no guarantee declarations will make projections any more or less accurate.

Management Questions

- **Should there be a requirement for vessel owners to declare their intended fishing gear in advance of a quota period?**
- **When and how will vessel owners declare their intended gear? Who will enforce compliance to the gear declarations?**
- **What happens when vessel owners decide to change their gear of choice before the trip?**
- **Will vessel owners be able to declare more than one gear and area?**

ISSUE 4: EMPTY FISH HOLD PROVISION

Background

To address concerns about the discard of unsold herring at sea, the amendment will consider an option requiring vessel holds to be empty of fish before leaving the dock on a fishing trip. This measure is intended to discourage dumping of unsold herring that may result from a lower sales than expected, and avoid mixing of fish landed from multiple trips. A vessel is considered to have landed once it has tied to the dock. The fish are accounted for by vessel monitoring reports (VMS), vessel trip reports (VTR) and by dealer records. These reports

are trip-specific, and the data is used to inform harvest control measures and bycatch avoidance programs.

Statement of the Problem

Currently, there is no management measure for emptying holds of fish prior to departing for a fishing trip in the interstate or federal Atlantic Herring management plans. There is concern that fish from multiple trips can be mixed if the holds are not completely emptied. This has the potential to compromise landings data used to inform harvest control measures and bycatch avoidance programs. Furthermore, leaving fish in the vessel's hold prevents portside samplers from observing the entirety of a trip, which hinders the operation of bycatch monitoring and avoidance programs.

In its Draft Framework Adjustment 4, the New England Fishery Management Council approved a requirement for vessel holds to be empty of fish prior to leaving a dock. The Council adopted Alternative 2.1.2, Alternative 2, Option C: a waiver may be issued for instances when there are fish in the holds after inspection by an appropriate law enforcement officer. This alternative would only apply to Category A and B boats. The intent is for waivers to be issued for refrigeration failure and non-marketable reported fish.

Considerations by the Plan Development Team

The PDT recognizes fishermen may have surplus catch that cannot be sold and is a challenge to dispose. The proposed requirement to empty vessel holds of fish may be an incentive to curb wasteful fishing practices and harvest more efficiently to meet market demands. In addition, this provision would eliminate the practice of keeping fish in a hold from one fishing trip and mixing with catch from another trip, which would result in inaccurate VMS, VTR, and dealer reports, as well as missing data for bycatch observations. The PDT noted there needs to be consideration for enforcement, unforeseen events that make it impossible to sell fish, and vessels that land at multiple ports.

Management Questions

- **Should vessel's fish hold be empty of fish prior to departure for an Atlantic herring fishing trip?**
- **What are the enforcement considerations?**
- **What considerations should be made for unforeseen circumstances that hinder or prevent sales of the fish (ex. a**

waiver to be issued for refrigeration failure and non-marketable reported fish)?

***OTHER
ISSUES***

The public may comment on other issues for consideration in the development of Draft Amendment 3 to the Interstate Atlantic Herring Fishery Management Plan.

- **What other issue(s) should be considered in Draft Amendment 3 to the Atlantic Herring FMP?**

Figures

Figure 1. Current boundaries of the three Atlantic herring spawning areas: Eastern Maine, Western Maine, and Massachusetts/New Hampshire.

Eastern Maine Spawning Area: All waters bounded by the following coordinates:
 Maine coast 68° 20' W
 43° 48' N 68° 20' W
 44° 25' N 67° 03' W
 North along US/Canada border

Western Maine Spawning Area: All waters bounded by the following coordinates:
 43° 30' N Maine coast
 43° 30' N 68° 54.5' W
 43° 48' N 68° 20' W
 North to Maine coast at 68° 20' W

Massachusetts/New Hampshire Spawning Area: All waters bounded by the Massachusetts, New Hampshire and Maine coasts, and 43° 30' N and 70° 00' W

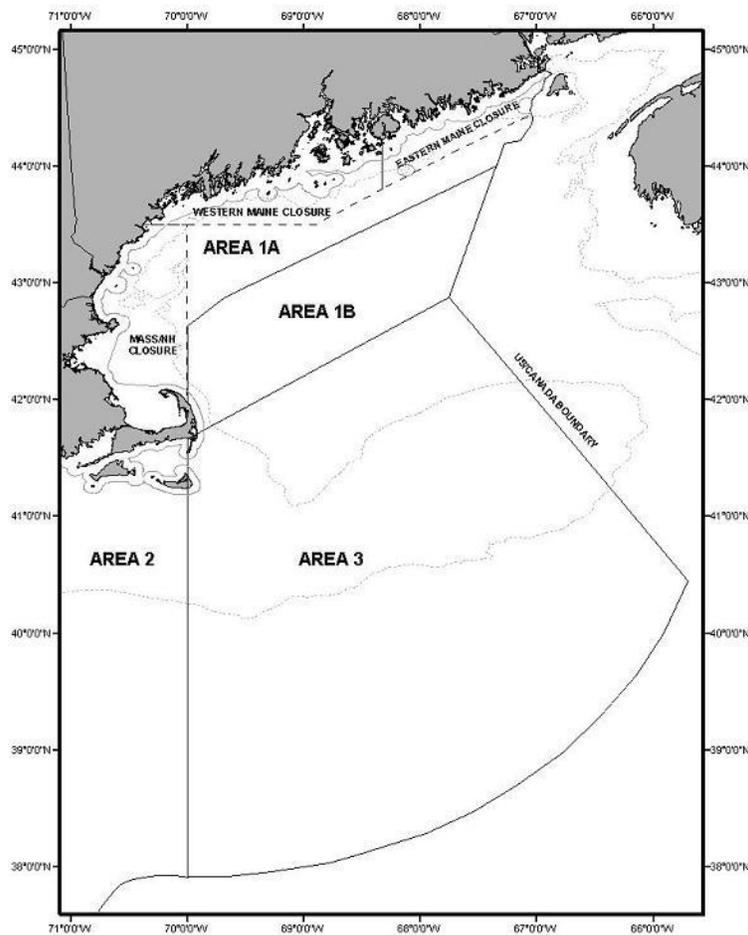


Figure 2. Total and spawning stock biomass and thresholds of Atlantic herring from 1965 to 2011. Total biomass is based on January 1 estimates.

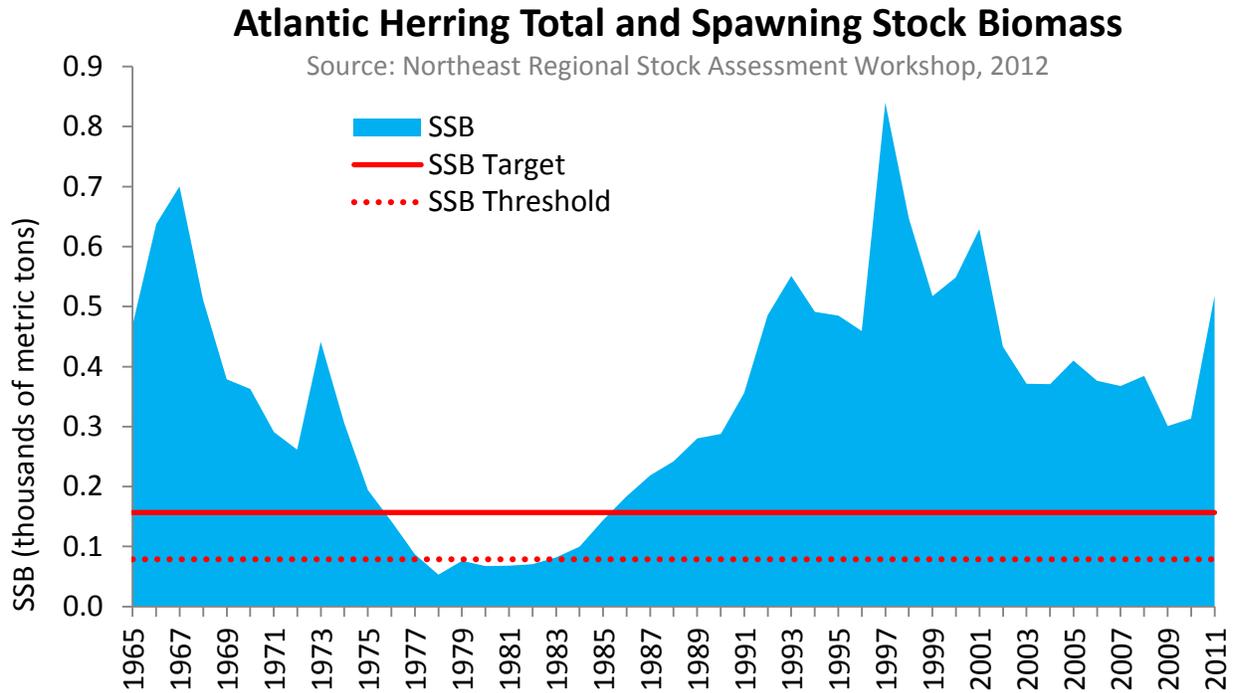


Figure 3. Atlantic herring catch from 1950 to 2013.

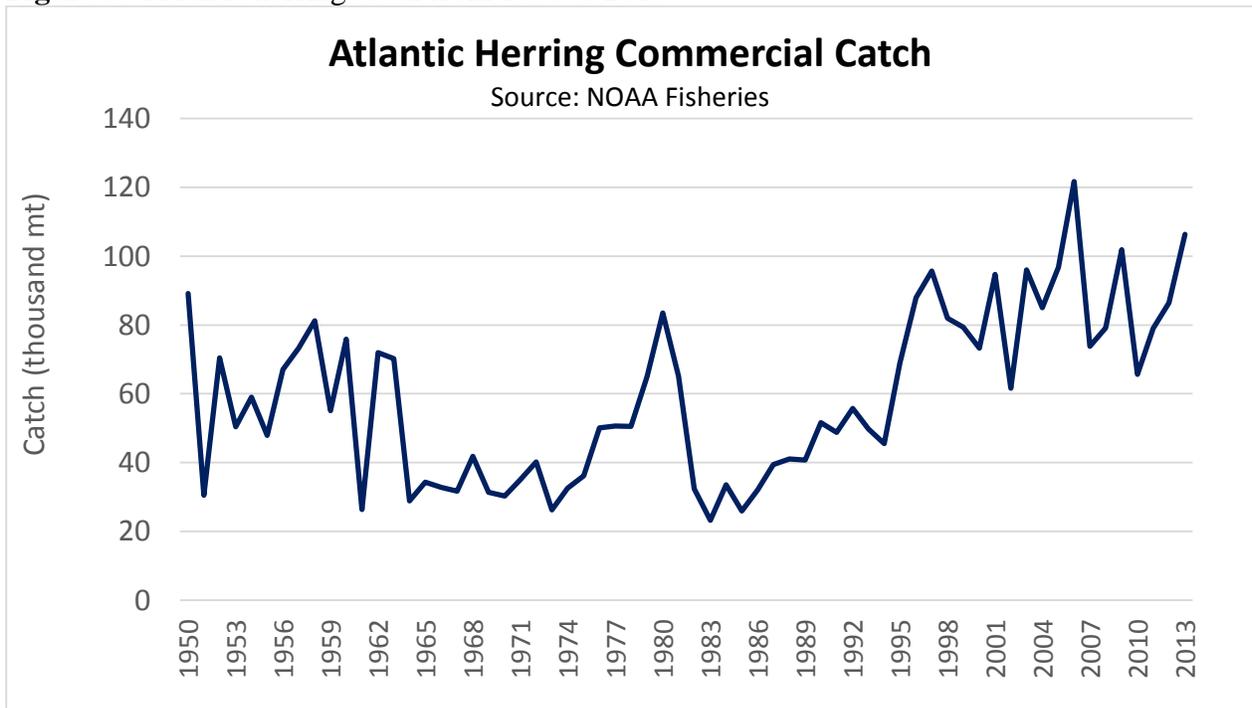


Figure 4. GSI samples for 23-27cm herring from the MEDMR and MADMF programs for the years 2005-2013. Filled circles indicate values above the closure threshold. Gray background indicates the closure period. Note that in 2011, the early closure was triggered by a second sample of larger herring above the threshold (28+ cm - not shown).

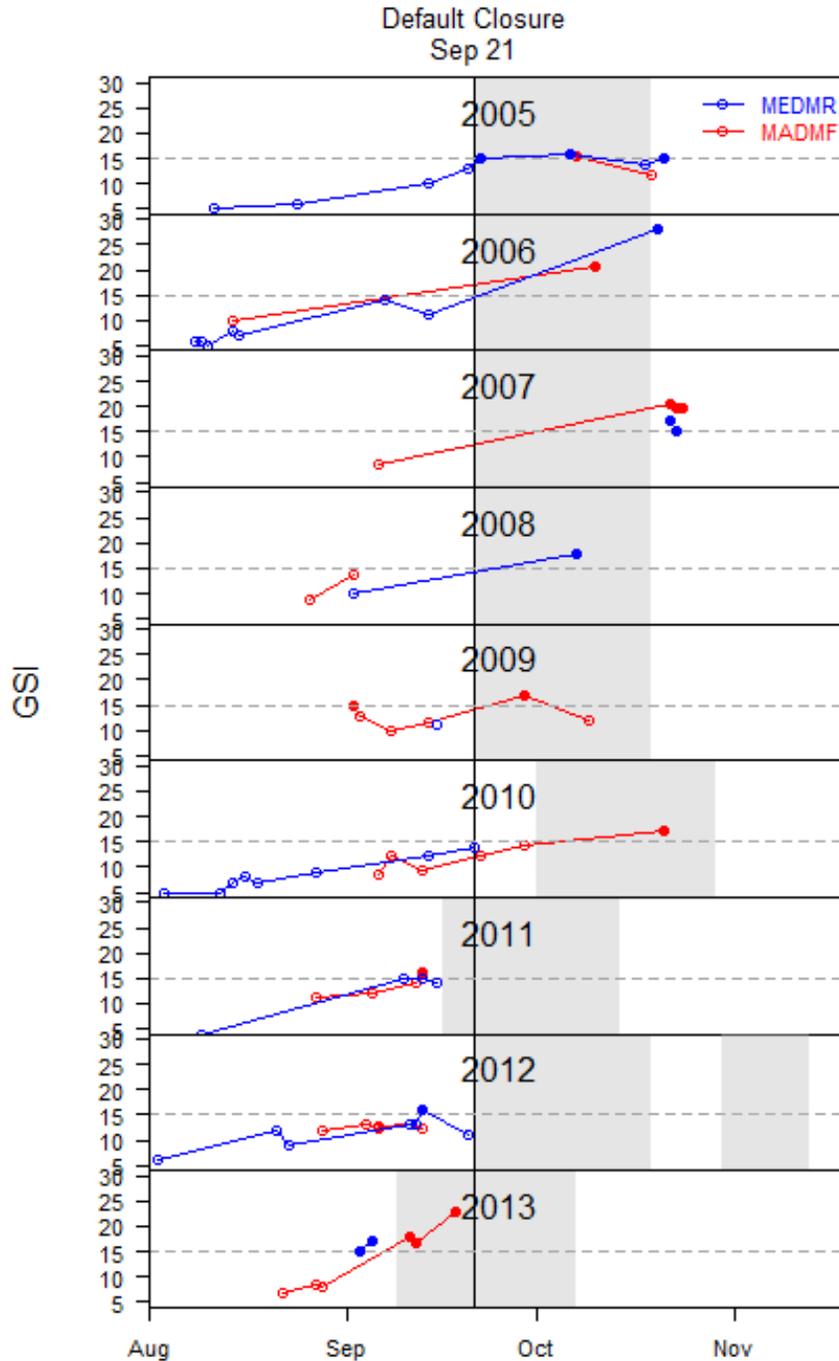
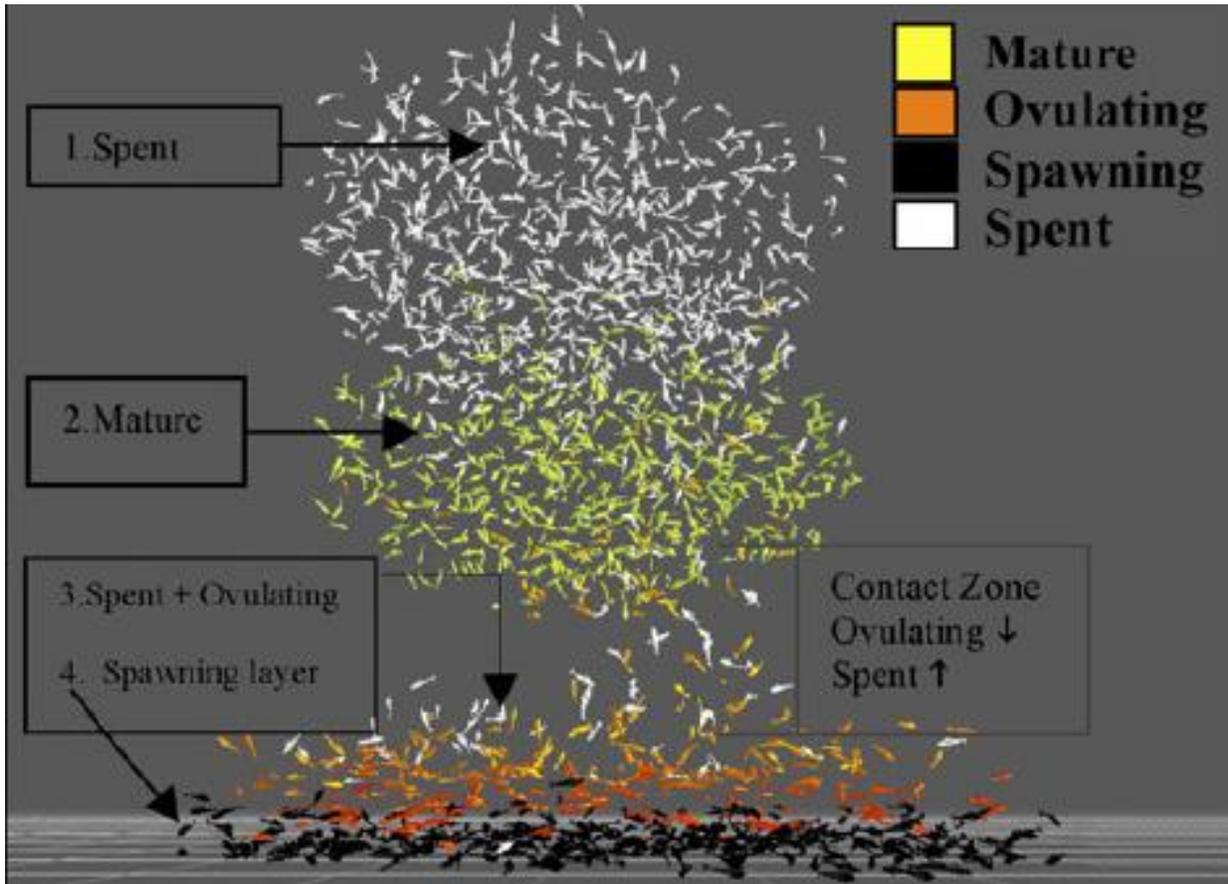


Figure 5. Vertical stratification by maturity stage within a school of spawning Atlantic herring (Vabo and Skaret, 2008).



Source: Vabø, Rune and Georg Skaret. 2008. Emerging school structures and collective dynamics in spawning herring: a simulation study. *Ecological Modeling*. 214, 125-140.

Appendix 1: Provisions for Spawning Area Closures

Addendum V to Amendment 2 to the Interstate Atlantic Herring FMP: Comprehensive Spawning Regulations (October 2012)

3.1.2 Management Program: Provisions revised under this Addendum

This language replaces part of the language in section 4.2.1.2 of Addendum I to Amendment 1: *Closures in a given area will begin seven days after the determination that female herring in ICNAF gonadal stages III - V from that specific area have reached the following spawning conditions: female herring greater than 28 cm in length have reached a mean gonadosomatic index (GSI) of 20%; or female herring greater than or equal to 23 cm and less than 28 cm in length have reached a mean GSI of 15%.*

3.2.2 Management Program: Provisions revised under this Addendum

This section replaces part of the language in section 4.2.1.2 of Addendum 1 to Amendment 1. Sufficient sample information shall mean at least two (2) samples of 100 fish or more, in either length category, taken from commercial catches during a period not to exceed seven days apart.

2.2.2 Default Start Date (4.3.2.2 Spawning Closures & Default Dates of Amendment 2):

If sufficient samples are not available, closures will begin on the following dates.

Eastern Maine: August 15

Western Maine: September 1

Massachusetts/New Hampshire: September 21

2.2.3 Sampling Protocol (4.2.1.2 Determination of Starting Date for Spawning Closures of Addendum I to Amendment 1):

Closures in a given area will begin based on the spawning condition of Atlantic herring as determined from commercial catch samples. Commercial catch sampling shall begin by at least August 1 for the Eastern and Western Maine areas, and by at least September 1 for the Massachusetts/New Hampshire area. If sufficient samples are not available, closures will begin on the default dates.

Closures in a given area will begin seven days after the determination that female herring in ICNAF gonadal stages III - V from that specific area have reached the following spawning conditions: female herring greater than 28 cm in length have reached a mean gonadosomatic index (GSI) of 20% or female herring greater than 24 cm and less than 28 cm in length have reached a mean GSI of 15%. Length refers to the mean natural total length, measured from the tip of the snout to the end of the caudal fin in normal position. "GSI" shall mean gonadosomatic index calculated by the following formula. Length refers to the mean natural total length, measured from the tip of the snout to the end of the caudal fin in normal position. "GSI" shall mean gonadosomatic index calculated by the following formula:

$$[\text{Gonad Weight} / (\text{Total Body Weight} - \text{Gonad Weight})] \times 100 \text{ percent}$$

2.2.5 Spawning Closure Length (4.3.2.2 Spawning Closures & Default Dates of Amendment 2):

By default, closures will last four (4) weeks. Catch sampling of the fishery will resume at the end of the initial four-week closure period. If catch sampling indicates significant numbers of spawn herring are still being harvested, closures will resume for an additional two weeks. Significant numbers of spawn herring is defined as 25% or more mature herring, by number in a catch sample, have yet to spawn. Mature or "spawn" herring are defined as Atlantic herring in ICNAF gonadal stages V and VI.

Appendix 2: Provisions for Fixed Gear Set-Aside

Regulatory language from Amendment 2 to the Interstate Atlantic Herring FMP:

4.3.4 Downeast Maine Fixed Gear Fisheries

In addition to including catch from the Downeast Maine fixed gear fishery east of Cutler as part of the assumed catch from the New Brunswick (NB) weir fishery, 500 mt of the Area 1A TAC will be set aside for fixed gear fisheries operating in Area 1A (weirs and stop seines) west of Cutler (area west of the shaded area below). This set-aside will be available to fixed gear fishermen in Area 1A until November 1. If the set-aside has not been utilized by the fixed gear fisheries west of Cutler by November 1, it will then be made available to the remainder of the herring fleet fishing in Area 1A until the directed fishery in 1A closes. If 95% of the Area 1A TAC has already been reached by November 1 (and the directed herring fishery in 1A is therefore closed), the set-aside will be released as part of the 5% set-aside for incidental catch in 1A (at a 2,000 lb trip limit).

Again, fixed gear fishermen in Area 1A will be required to report their herring catches through the Interactive Voice Response (IVR) reporting system. Currently, fixed gear fishermen are not required to report on a real-time basis through IVR reporting. However, this measure relies on real-time monitoring of fixed gear catches in Area 1A, so IVR reporting is necessary.

Under the combination of these two measures, the TAC set-aside applies to the fixed gear fisheries occurring in Area 1A west of Cutler. The fixed gear fishery occurring east of Cutler will be exempt from the Area 1A TAC.

Regulatory language from Framework 2 of the Federal Atlantic Herring FMP:

Herring regulations (§ 648.201(g)) specify that up to 500 mt of the Area 1A sub-ACL shall be allocated for the fixed gear fisheries in Area 1A (weirs and stop seines) that occur west of 44° 36.2 N. Lat. and 67° 16.8 W. Long. This set-aside shall be available for harvest by the fixed-gear within the specified area until November 1 of each year; any unused portion of the allocation will be restored to the Area 1A sub-ACL after November 1. During 2010–2012, the fixed gear set-aside was specified at 295 mt. Because the Area 1A sub-ACL for 2013–2015 is not substantially different from the Area 1A sub-ACL in 2012, the Council recommended that the fixed gear set-aside remain the same. This final rule sets the fixed gear set-aside at 295 mt for 2013–2015.

ATLANTIC STATES MARINE FISHERIES COMMISSION

**SUMMARY OF PUBLIC COMMENTS TO THE
PUBLIC INFORMATION DOCUMENT FOR
DRAFT AMENDMENT 3 TO THE
ATLANTIC HERRING FISHERY MANAGEMENT PLAN**

Presented to the Section
August 2014

The Public Information Document (PID) for Draft Amendment 3 to the Atlantic Herring FMP was approved for public comment in May 2014. The four issues presented in the document are: spawning area efficacy in Area 1A, fixed gear set-aside provision, gear declaration, and empty fish hold provision.

The comment period for the PID for the Draft Amendment 3 was open from May 14 through July 10, 2014. Three public hearings were held in three states: Maine, Massachusetts, and New Hampshire. Stakeholders were also encouraged to submit written comments. The public hearings were an open-question format allowing stakeholders to comments on each issue and provide additional information and considerations to inform management options, should a draft amendment be developed. Combined, 23 individuals (excluding staff) attended the hearings to provide public comments (Table 1).

Table 1: Participants (excluding staff) of the public hearings.

State	Fishermen	Government (federal/ state)	NGO	Section Members	TOTAL
ME	10	1	0	0	11
MA	2	2	2	0	6
NH	4	0	0	2	6
TOTAL	16	3	2	2	23

Four sets of written comments were submitted to ASMFC via three letters and one email. All written comments came from groups: three associations presenting the fishing industry and one environmental non-profit group.

In general, a majority of stakeholders' comments were in favor of reviewing and enhancing spawning protections for Atlantic herring and a provision to require empty fish holds (issues 1 and 4, respectively). Stakeholders from Massachusetts and New Hampshire do not support adjusting the fixed gear set aside provision at this time (issue 2). However, fishermen in Maine would like to have different provisions for the fixed gear set-aside. There were no comments in favor of the gear declaration requirement (issue 3).

The following pages contain summaries of public hearings and written comments, and copies of actual written comments and public hearing sign-in sheets.

SUMMARIES OF PUBLIC HEARINGS

Gloucester, Massachusetts

June 4, 2014

Meeting Staff

Melissa Yuen (ASMFC), Dr. David Pierce (MA DMF)

6 Meeting Participants

Erica Fuller, Caleb Gilbert, Gregg Wells, Dave Ellenton, Brad Schendelmeier, Gerry O'Neill

Issue 1: Spawning Area Efficacy

At this time, participants do not support a change in spawning closure dates and boundaries. Participants do not support the PDT's recommendation for a two-week extension, which would severely limit fishing opportunities and should not be implemented until there is more scientific support. They cited the 2013 fishing year as an example, in which there was only seven fishing days in the Massachusetts-New Hampshire spawning area after the October 1 opening date.

Participants discussed the spawning sampling program. Commercial sampling seems to be sufficient because there is cooperation between fishermen and state marine resources staff to obtain samples for gonadosomatic index analysis. A participant commented that spawning closures should happen sooner than seven days after detection of sufficient mature samples (current language in the FMP states closure will begin in seven days after determination that female herring in ICNAF gonadal stages III – V have reached spawning conditions).

Participants commented on the need to protect offshore spawning, which would involve working with other states.

Issue 2: Fixed Gear Set-Aside

Participants do not support a change to the current provision and agreed to the reasons cited in the PID. Participants asked about the ages of fish are caught by the fixed-gear fishery, which historically caught sardines (juvenile herring).

Issue 3: Gear Declaration

Participants do not support the need for gear declaration at this time. The current system for determining effort through the "days out" program is working. Participants thought this issue is biased towards purse seining, and does not understand the intention.

Issue 4: Empty Fish Hold Provision

Participants support the provision to require vessel holds to be empty of fish. Empty holds would be safer for fishermen in addition to the reasons cited in the PID. Waivers are necessary for the situations in which reported fish cannot be sold, however, there should be a limit on the number of waivers.

Rockland, Maine

June 5, 2014

Meeting Staff

Melissa Yuen (ASMFC), Terry Stockwell (ME DMR)

12 Meeting Participants

David J. Ossier, Glenn Lawrence, Scott McNamara, Dale Moore, Jody Martin, Frank O'Hara
Fran Kulle, Captain Michael Brewer, Paul Yorn, Shaun Rockett, Barry Matthews

Issue 1: Spawning Area Efficacy

Participants do not support the two week extension because it would severely limit fishing opportunities and the availability of bait. Instead, the southern spawning area (MA-NH) should be divided because of the different times in which spawning fish have been observed.

Participants would like to see a scientific assessment of the mixing of fish in the MA-NH area. Staff explained that the PDT only reviewed the MA-NH spawning area at this time, and does not have enough scientific support to adjust the boundaries or divide the southern area.

Regarding closure dates, participants suggested removing default spawning area closure dates to provide flexibility in all areas. If no spawning fish are detected with adequate sampling, there should not be a closure (i.e. no default closure dates). The current language, which states a given area will close seven days after determination of significant spawning females, should be adjusted to 48 hours. The notification process can be streamlined, and should no longer require seven days. There should be daily reporting of any spawning samples collected and analyzed, which would provide information in advance to help managers and fishermen prepare for closure (based on anecdotal evidence that it takes one week to ten days for GSI to go from 10 to 25%).

Issue 2: Fixed Gear Set-Aside

Participants support removing the fixed gear set-aside provision. A participant provided anecdotal evidence of sea herring observed in Gulf of Maine after November 1. They would like to have the fixed gear set-aside available in Trimester 1, even when the fishing season for other gears begin on June 1. The fixed gear set-aside should be exempt from spawning closures, but fishermen are still prohibited from possessing ripe fish. Another option would be rolling over unused set-aside into the following year's set aside.

Issue 3: Gear Declaration

Participants were strongly against the requirement for gear declaration in advance of a fishing season. Vessel owners do not want to be locked in to a particular gear because there may be instances when mechanical issues occur and they will need to switch gears. However, participants noted that there should not be two types of gears on a vessel at a time. Vessel owners are required to report each trip, which provides managers with the information to respond quickly to fishing effort with the current system for setting the "days out" and landings days per week.

Participants noted that it is more important and useful to know the capacity of vessels, rather than the gear types. The use of carriers increases the fishing capacity ("makes fishing limitless"). Carriers have to submit vessel trip reports, but they fill in "zero" for the catch amount.

Participants recommend implementing a cap on the carrying capacity of vessels and suggested 200-250 metric tons. In addition, there should be one management measure for all three states (i.e. Maine, New Hampshire, and Massachusetts) to prohibit switching from fishing to carrying in a specific amount of time (ex. one week).

Issue 4: Empty Fish Hold Provision

Participants strongly support a provision to require holds to be empty of fish. This provision would stop people from taking too much fish and dumping of excess catch. This provision will alleviate mechanical issues that occur when fish are kept in the holds. The New England Council already addressed this issue. There should be two, no more than three, waivers allowed for instances in which fish cannot be sold, such as refrigeration failure and reported, unmarketable fish.

Other Issues

One participant would like for ASMFC to address the issue of marine mammals, particularly harbor seals.

Portsmouth, New Hampshire June 23, 2014

Meeting Staff

Mike Waine (ASMFC), Doug Grout (NH FGD)

6 Meeting Participants

Ritchie White, Dennis Abbott, Peter Kendall, Ryan Raber, J.P. Bilodeau, Mark Arsenault

Issue 1: Spawning Area Efficacy

Participants agreed that existing spawning areas are sufficient to protect spawning herring. They did not understand why the two week extension was an option. Staff explained that spawning has been occurring later, so the PDT recommended an extension to ensure spawning was complete prior to re-opening the area.

The following comments were also received:

- Closures should not be implemented until there is evidence of spawning herring, even if this means extending the closures past the default date.
 - If closures will be postponed, there should be a reason (or a trigger) for the postponement. i.e., if sampling is not being done, then there is no reason to postpone. However, if sampling is being done and there is evidence of spawning, closures can be implemented.
- Including more vessels in the sampling may be beneficial, as vessels on the fringe of the fishery may have better data available that contributes to timing the closures.

Issue 2: Fixed Gear Set-Aside

Participants agreed that the measures for this issue should remain status quo, as it has been working well for fixed-gear fishermen.

Issue 3: Gear Declaration

An individual feels strongly that declaring intended fishing gear should not be required in advance of the quota period. Fishermen must have the flexibility to switch between gears, especially because the fishery is market-driven. If problems arise, days-out meetings can be scheduled quickly and address any issues. All other questions under this issue were not relevant, since this individual was against gear declaration.

Issue 4: Empty Fish Hold Provision

Participants agreed that the empty fish hold requirement is important to the fishery and ensures fish are being harvested responsibly. Waivers need to be limited to the refrigeration issue rather than the marketable issue (if you brought in too much fish that should not be an acceptable waiver).

SUMMARIES OF ADDITIONAL COMMENTS (from written comments)

Stakeholder who submitted written comments via letters and email consisted of commercial fishermen (purse seiners), bait providers, and an environmental non-profit organization.

Issue 1: Spawning Area Efficacy

- Current regulations are adequate for protecting spawning herring. There is not sufficient scientific evidence to warrant a change in spawning area boundaries. Commercial sampling is sufficient for spawning analysis.
- There is no reason to close an area if spawning is not detected.
- The fishing industry does not support the PDT's recommended two week extension in the MA-NH spawning area, as it is onerous and does not consider the impact to fishermen or end users (i.e. lobstermen). An environmental organization, on the other hand, supports the more conservative approach to extend spawning closure by two weeks.
- Spawning regulations have morphed over time from four areas with tolerance to three with no fishing allowed during closed seasons. The current measures no longer appear to consider a balance between protection and needs of the fishery, considering the 2012 SAW 54 benchmark stock assessment determined the stock to be not overfished and overfishing is not occurring.
- Re-instate a 20% spawn tolerance.
- Add another spawning area south of Boon Island to Cape Cod.
- Any adjustments to the spawning area boundaries must be carefully considered and justified by scientific analysis.
- The Commission should advance protections for spawning herring in Georges Bank/Nantucket Shoals, including issuing a request for NEFMC and NOAA Fisheries to address spawning area protections in the Council's Draft Omnibus Habitat Amendment 2. Management measures designed to protect offshore spawning includes avoiding disruption of eggs beds by mobile bottom gear types (ex. otter trawls and clam dredges) and closure periods greater than four weeks.
- Undertake a comprehensive review of the spawning sampling program, including the impacts of a gear bias in commercial sampling and whether commercial sampling is sufficient to documenting spawning herring.

Issue 2: Fixed Gear Set-Aside

- The existing rollover provision should remain in place.
- The set-aside is a small percentage of the Area 1A annual catch limit and fixed gear fishermen can fish under the total ACL. Bait providers do not support utilizing significant resources to amend both state and federal plans to change this provision.

Issue 3: Gear Declaration

- Each vessel owner to declare intent to fish in Area 1A by beginning of fishing season.
- There should absolutely not be a requirement for vessel owners to declare intended fishing gears ahead of time. The conditions and gear decisions change on a trip-by-trip basis. Fishermen spent millions of dollars equipping vessels, and such a requirement would negate the investment in gear.
- Current process of adjusting days out is sufficient to address changes in fishing effort.

Issue 4: Empty Fish Hold Provision

- The vessel's fish holds should be empty of fish prior to departure. This issue was already addressed at the April New England Management Council meeting.

Other Issues

- Trip limit of 500,000 pounds of Atlantic herring for purse seiners and carriers.



July 10, 2014

Robert E. Beal, Executive Director
Atlantic States Marine Fisheries Commission
1050 North Highland St., Suite 200 A-N
Arlington, VA 22201

RE: ASMFC Public Information Document for Draft Amendment 3 to the Atlantic Herring FMP

Dear Mr. Beal,

On behalf of The Pew Charitable Trusts, I am writing to submit public comments regarding the Atlantic States Marine Fisheries Commission's (ASMFC) Public Information Document (PID) for Draft Amendment 3 to the Atlantic Herring Interstate Fishery Management Plan (Amendment 3). Protecting the forage base of the Northeast Shelf ecosystem, including Atlantic herring, is essential to successful fisheries management and has been a longstanding priority of Pew.¹ As a food source, Atlantic herring is a keystone species within the North Atlantic Large Marine Ecosystem.² Thus, we strongly support the initiation of an amendment to improve protections for spawning herring, and the timeline proposed. Pew also strongly supports the ASMFC's focus on expanding protections for spawning Atlantic herring in the offshore areas of Georges Bank/Nantucket Shoals.

Specifically, Pew recommends that the ASMFC take the following actions:

- **Issue 1 (Spawning Area Efficacy)**
 - Advance offshore protections for spawning Atlantic herring on Georges Bank/Nantucket Shoals, including immediately issuing a request that the New England Fishery Management Council (NEFMC) and NOAA Fisheries address herring spawning protection in the NEFMC's Omnibus Habitat Amendment (OHA2 currently in draft form) as appropriate under the Essential Fish Habitat (EFH) provisions of the Magnuson-Stevens Act.³
 - Undertake a comprehensive review of the sampling methodology used to inform spawning closures in the Gulf of Maine. This review should analyze the impacts of the substantial gear

¹ Letter to the ASMFC from Pew regarding Atlantic Herring Draft Addendum V, June 22, 2012.

² Overholtz, W.J., Jacobson, L.D. and Link, J.S. (2008) An ecosystem approach for assessment advice and biological reference points for the Gulf of Maine-Georges Bank Atlantic herring complex. *N. Amer. J. Fish. Manag.* 28:247-257.

³ Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801-1884 (2007); 50 CFR § 600.815 (a)(10) Review and revision of EFH components of FMPs. NOAA is intended to be an active participant in this process, providing written recommendations for the EFH components of the relevant fishery management plans. § 600.815 (b) Development of EFH recommendations for Councils; 50 CFR 600.815 (a)(7): Prey species: Loss of prey may be an adverse effect on EFH and managed species because the presence of prey makes waters and substrate function as feeding habitat, and the definition of EFH includes waters and substrate necessary to fish for feeding. Letter to the NEFMC from CLF, Earthjustice, NRDC, Oceana and Pew regarding OHA2, February 20, 2014.

- bias documented on sampling as it currently exists and include recommendations to minimize this bias and achieve comprehensive sampling of spawning herring. Further, analyze whether commercial sampling is sufficient to adequately document spawning herring. This analysis should be made available to the public for review and comment in the draft amendment.
- Extend the Massachusetts/New Hampshire spawning closure by a minimum of two weeks to better protect spawning herring and maintain the existing boundaries of spawning closures, as recommended by the Plan Development Team (PDT). A more conservative approach (i.e., extending both the start and end of the closure period) is justified to allow for a changing climate that is amplifying normal annual variation in timing, and imprecision in the real-time assessments of spawning activity. Any modifications to the existing spawning closures in the inshore Gulf of Maine must be carefully considered in light of annual variation and justified by scientific analysis with appropriate accounting for uncertainty and the appearance of multiple spawning waves.⁴
 - **Issue 2 (Fixed Gear Set Aside)**
 - Support expanded fishing opportunities for the traditional fixed gear fishery by reconsidering rollover of the fixed gear set aside.
 - **Issue 3 (Gear Declaration)**
 - Support further analysis of the gear declaration to improve projections and reduce the likelihood of destructive overages and/or early closure of the fishery.
 - **Issue 4 (Empty Fish Hold Provision)**
 - Support the empty fish hold provision to ensure accurate estimates of catch and bycatch in the fishery, prevent dumping of unsold herring at sea, and promote consistency with a similar measure that was adopted by the NEFMC in Framework 4 to the Atlantic Herring FMP.

Spawning Area Efficacy

Pew recognizes and supports the ASMFC's continued efforts to strengthen protections for spawning aggregations of Atlantic herring in the Gulf of Maine region. Atlantic herring is a keystone species in the Northeast Large Marine Ecosystem, serving as food, or "forage" for the region's most valuable ocean predators, including cod, striped bass, bluefin tuna, sharks, whales and other marine mammals, as well as seabirds.⁵ Accordingly, we urge the ASMFC to follow a particularly cautious and well-informed approach as it considers changes to its spawning regulations, ensuring decisions are guided by the best scientific information available. The ASMFC must carefully consider the risks attendant to ascribing an overly narrow spatial and temporal definition to the spawning requirements of Atlantic herring, a definition that does not account for natural inter-annual variation, does not consider disruption of pre-spawning behavior, and does not allow for the emergence of new spawning groups outside of what is presently occurring. It is well known that healthy Atlantic herring populations tend to spawn in a succession of waves, with older fish spawning earlier and the younger animals spawning progressively

⁴ Lambert TC (1987) Duration and intensity of spawning in herring *Clupea harengus* as related to the age structure of the mature population. *Mar Ecol Prog Ser* **39**:209-220.

⁵ Overholtz, W.J., Jacobson, L.D. and Link, J.S. (2008) An ecosystem approach for assessment advice and biological reference points for the Gulf of Maine-Georges Bank Atlantic herring complex. *N. Amer. J. Fish. Manag.* **28**:247-257.

later.⁶ These considerations are not only justified by the scientific literature about the past but are also necessary to respond to a changing climate in the future.⁷ Responses to individual questions posed in the PID are answered below.

1. *How can Atlantic herring be protected during its reproductive seasons?*

The ASMFC must work cooperatively with the NEFMC to expand upon existing protections to ensure that pre-spawning aggregations, spawning fish, and their developing eggs are afforded protection at key places and times. This should be accomplished by (1) requesting that the NEFMC select EFH alternatives for OHA2 that will protect known and historic herring spawning grounds and (2) by developing complementary measures in Amendment 3.

The DEIS for New England's OHA2⁸ already contains a number of EFH area alternatives that would, with appropriate management, protect spawning Atlantic herring (see Appendix). Among these, Alternative 8 for Georges Bank is in a vital offshore herring spawning area. The DEIS also contains options in Downeast Maine and the Great South Channel that could also improve a region-wide program for protection of these vital forage fish. The vitality of the remaining offshore spawning groups is essential to the regional ecology and to the re-establishment of near-shore spawning groups. Special attention to Atlantic herring as a forage species, including coordination with the NEFMC in federal waters, is well aligned with the ASMFC's Five-Year Strategic Plan (2014-2018).

Management measures must be designed to protect pre-spawning fish, spawning aggregations, and eggs maturing on the seabed. On Georges Bank, for example, herring form massive shoals near their spawning grounds on the Northern Edge before spawning.⁹ Spawning females deposit eggs that form dense mats that adhere to the seabed where they develop over a period of time ranging from 6 to 40 days, with time to hatching being dependent upon temperature.¹⁰ Any gear contacting the bottom will disturb the eggs, particularly mobile gears such as otter trawls, pelagic trawls, and clam dredges. We recommend these considerations be factored into spawning closure decisions to ensure closures are of sufficient duration in order to maximize successful reproduction, from spawning activity to the hatching of eggs. This will require closure periods greater than four weeks. Overly narrow time windows are risky due to seasonal or annual variation and can have the effect of preventing the emergence of new spawning events beyond what appears to be a dominant mode.

⁶ Lambert TC (1987) Duration and intensity of spawning in herring *Clupea harengus* as related to the age structure of the mature population. *Mar Ecol Prog Ser* **39**:209-220; Collette BB, Klein-MacPhee G (2002) Bigelow and Schroeder's Fishes of the Gulf of Maine, 3rd edition, Smithsonian Institution Press, Washington. Page 148.

⁷ See review of reproductive biology in Collette, Kline-McPhee (2002) Bigelow and Schroeder's Fishes of the Gulf of Maine; MAFMC [East Coast Climate Change and Fisheries Governance Workshop](#), March 19-21, 2014, Washington, DC; IPCC AR5 WG II [Chapter 6](#). Ocean Systems; [Union of Concerned Scientists](#); [Northeast Climate Impacts Assessment](#); Third [National Climate Assessment](#), 2014.

⁸ [Omnibus Essential Fish Habitat Amendment 2](#)

⁹ Makris NC et al., (2009) Critical Population Density Triggers Rapid Formation of Vast Oceanic Fish Shoals. *Science* **323**: 1734-37.

¹⁰ Collette BB, Klein-MacPhee G (2002) Bigelow and Schroeder's Fishes of the Gulf of Maine, 3rd edition, Smithsonian Institution Press, Washington. Page 150.

2. *If spawning herring is not detected with sufficient sampling, should there be a closure?*

We have strong reservations about removing spawning closures under this scenario, especially given the concerns raised about the limitations of the current sampling program. As noted by the PDT, commercial sampling may be subject to substantial bias due to vertical stratification of herring maturity stages (i.e., spawning fish reside closest to the seafloor, and developing, spent and juvenile fish above them in that order).¹¹ Therefore, it's possible that localized spawning could occur but may go unnoticed because all commercial gears are not equally effective at sampling herring in spawning condition (i.e., bottom trawls are more likely to sample spawning fish than midwater trawl or purse seine). Also, it's important to note that these spawning areas (Eastern Maine, Western Maine, and Massachusetts/New Hampshire) were designated based upon the locations of known spawning aggregations.¹² Thus, spawning area borders should appropriately delineate and protect spawning activity in situations where spawning occurs but may not be encountered through existing fishery-dependent sampling. Closures should continue as established by the default dates (unless sampling shows earlier spawning than the default dates)¹³ until more comprehensive sampling and monitoring of spawning Atlantic herring is in place, including fishery independent sampling designed for Atlantic herring.

3. *Is commercial sampling sufficient for spawning herring?*

Because of the issues noted by the PDT, including substantial gear bias, samples from small spatial areas and disparity in spawning seasons related to geography, the ASMFC should conduct a complete review of the methodology used to inform spawning closures in the Gulf of Maine. The review should include thorough consideration of the potential for gear bias in sampling and identify recommendations on how best to reduce it. Based upon this review, the ASMFC should consider alternatives to improve sampling and detection of spawning fish. Devoting disproportionate ASMFC and NOAA Fisheries resources to monitoring this stock is well justified by the key role that herring play in supporting the ecosystem. We suggest that the ASMFC consider developing a new fishery-independent sampling program to provide representative and unbiased samples for monitoring spawning.

4. *Do the existing boundaries of each spawning area adequately protect ripe and running Atlantic herring?*

The PDT finds that "current spawning area boundaries are adequate and further sub-areas are not warranted." As such, we do not support any changes to boundaries of the existing herring spawning areas. However, should any modifications to the existing three closures be proposed, they must be carefully considered and justified by scientific analysis.

In addition to all the management issues identified in the PID for Amendment 3, we urge the ASMFC to help secure protections for spawning Atlantic herring in federal waters through the NEFMC EFH amendment. The current lack of such protections represents an outdated and risk-prone approach to

¹¹ Vabø, Rune and Georg Skaret. 2008. Emerging school structures and collective dynamics in spawning herring: a simulation study. *Ecological Modeling*. 214, 125-140.

¹² Addendum I To Amendment 1 of the Interstate Fishery Management Plan for Atlantic Sea Herring; Technical Addendum #1a to Amendment 1 to the Interstate Fishery Management Plan for Atlantic Sea Herring

¹³ Addendum V to the Interstate Fishery Management Plan for Atlantic Herring, page 10.

managing for the long-term health of the resource. It is widely recognized that Atlantic herring persists as a meta-population made up of multiple distinct groups. These components of the population must each be protected to ensure the stability of this important resource throughout the Northeast Large Marine Ecosystem.

Specifically, the ASMFC should immediately request that the NEFMC incorporate spawning protections in the OHA2, which includes alternatives that could afford important protections for spawning herring, particularly on Georges Bank. The Magnuson-Stevens Act defines EFH to include prey and thus the habitat required by species like Atlantic herring.¹⁴ However, to date, NOAA Fisheries and the NEFMC have largely ignored this requirement. Moreover, the OHA2 amends the Atlantic herring FMP and clearly spawning areas for herring are also EFH in their own right for this species. Fortunately, the OHA2 already includes EFH alternatives in the offshore that overlap with known spawning grounds. With selection of these areas, and appropriate management measures, significant progress could be made on herring spawning through the OHA2. Accordingly, the ASMFC should seek cooperation from the NEFMC and NOAA Fisheries to improve upon the protections for spawning Atlantic herring through the OHA2.

Thank you for the opportunity to comment on the PID for Draft Amendment 3 to the Atlantic Herring FMP. We look forward to working with ASMFC on proactive and precautionary long-term management of herring and other forage stocks to ensure the health and productivity of the Atlantic coast marine ecosystem.

Sincerely,



John D. Crawford, PhD
U.S. Oceans Northeast
The Pew Charitable Trusts

cc:

Mr. John Bullard, Regional Administrator
NOAA Fisheries Service, Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Thomas J. Nies, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

¹⁴ Sustainable Fisheries Act, Pub. L. No. 104-297, § 3, 110 Stat. 3559, 3561 (1996); 16 U.S.C. § 1802(10); Magnuson-Stevens Fishery Conservation and Management Act, As Amended, May 2007, Second Printing, Section 3, Definitions, 16 U.S.C. 1802, 104-297, page 6.

Appendix: presented to the NEFMC February 20, 2014 as part of a comment letter on the Omnibus Habitat Amendment.

Appendix II: Forage Fish

Food: Atlantic herring EFH. Atlantic herring, their spawning grounds and other critical areas, must be protected as EFH. Herring is a keystone species within the Northeast U.S. Continental Shelf large marine ecosystem,¹⁵ serving a vital role as food for many of the region’s most prized fish including Atlantic cod, haddock, and bluefin tuna. Herring also provide essential sustenance for other species under the stewardship of NOAA Fisheries, including whales and other mammals protected by both the ESA and the Marine Mammal Protection Act (MMPA). The influence of herring and a second major food source, sand lance, on the spatial distribution of cod was a focal point for a new analysis during the recent cod stock assessment. These two forage fish can represent over half of the adult cod diet and thus the places where these two forage species occur drive the spatial and temporal distributions of cod and other predators. When sand lance is in high abundance on Stellwagen Bank, cod concentrate there in places referred to as *forage hotspots* in the Gulf of Maine cod stock assessment.¹⁶ At other times, cod redistribute themselves in the Western Gulf of Maine when feeding on herring. A recent peer reviewed study in the Proceedings of the National Academy of Sciences showed that not only are adult herring vital as food for cod and other groundfish, but their eggs and larvae are a major source of food for haddock.¹⁷

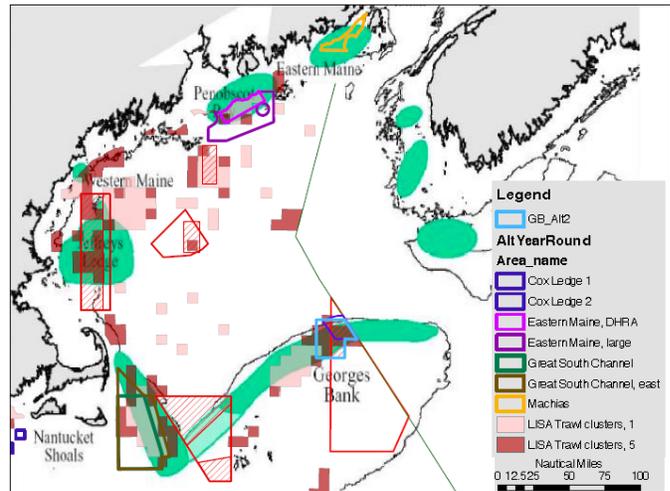


Figure A1. Spawning areas of Atlantic herring (green) shown together with SASI/LISA areas, existing EFH areas, and some of the DEIS alternatives. Spawning areas reproduced from the most recent stock assessment (SAW/SARC 54, 2012).

¹⁵ Overholtz; Richardson DE et al (2010) ICES; Read and Brownstein, 2003; Brandt and McEvoy, 2006; Overholtz and Link, 2007.
¹⁶ Gulf of Maine Atlantic Cod (*Gadus Morhua*) Stock Assessment For 2012, Updated Through 2011. 55th SAW Assessment Report. Northeast Fisheries Science Center Reference Document 13-11
¹⁷ Richardson DE et al (2011) Role of egg predation by haddock in the decline of an Atlantic herring population. Proceedings of the National Academy of Sciences, 108 (33):13606–13611

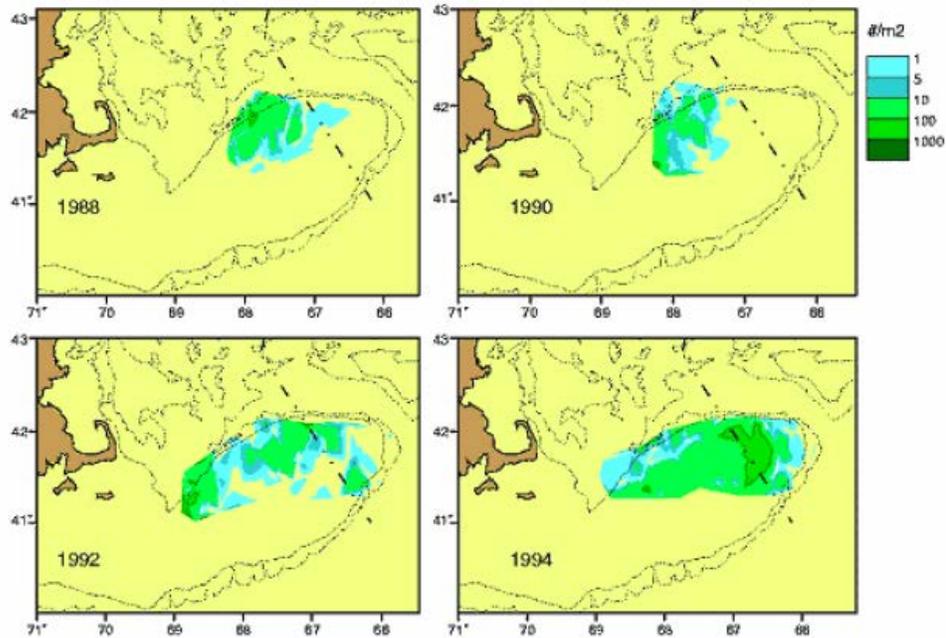


Figure A2. Distribution of recently hatched Atlantic herring on Georges Bank. Reproduced from EFH source document, NOAA Technical Memorandum NMFS-NE-192 (2005)

Atlantic herring form shoals during site-specific spawning behavior. In some cases, these shoals are vast (e.g., 250 million herring on the Northern Edge of Georges Bank at one time),¹⁸ making the fish especially vulnerable to fishing at this critical life stage. Herring eggs are adhesive, sinking to the bottom where they adhere to rocks, pebbles, gravel, or shell beds selected for spawning, and form dense egg-mats.¹⁹ Thus, not only are aggregated adults vulnerable to fishing during spawning but so too are the eggs on the bottom. Any gear contacting the bottom will disturb the eggs, particularly mobile gears such as otter trawls, clam dredges, and mid-water herring trawls. Herring spawning in a given locality may have a dominant time in the year, but spawning can occur at many different times year, from early spring through late fall in the Northeast. Management should be designed to ensure that even small spawning contingents are not inadvertently extirpated by fishing, which makes the population as a whole more vulnerable, and reduces the availability of herring as food (i.e., eggs, larvae, juveniles and adults) in space and time.

Distinct spawning groups of Atlantic herring have been documented over the past century as illustrated in the map above, reproduced from the most recent herring stock assessment (Figure A1).²⁰ This map does not capture a number of small near shore spawning localities, some of which may no longer exist, nor the spawning areas documented along the southern edge of Georges Bank.²¹

Both the EFH management areas and the measures adopted for them must ensure that the spawning grounds for Atlantic herring are afforded sufficient protection to ensure spawning success for herring throughout the year. Herring spawning is

¹⁸ Makris NC et al (2009) Critical Population Density Triggers Rapid Formation of Vast Oceanic Fish Shoals. *Science* **323**: 1734-1737.

¹⁹ Reviewed in Collette and Klein-MacPhee 2002

²⁰ Figure A4- 3 reproduced from SAW/SARC 54 Stock Assessment of Atlantic Herring – Gulf of Maine/Georges Bank For 2012, Updated through 2011: *Generalized view of the current major herring spawning areas in the Gulf of Maine and on George Bank*; an identical map is included as Figure 3 of the Essential Fish Habitat Source Document: Atlantic Herring, *Clupea harengus*, Life History and Habitat Characteristics. Second Edition, 2005. NOAA Technical Memorandum NMFS-NE-192.

²¹ See Overholtz et al (2004) Stock Assessment of the Gulf of Maine - Georges Bank Atlantic Herring Complex, 2003. Northeast Fisheries Science Center Reference Document 04-06.

driven by specific conditions of the substrate and water flow and use of particular places has waxed and waned throughout recent history. Management should allow for reestablishing spawning in areas where spawning may be minimal today.

Food: Sand lance as EFH. Sand lance is widely recognized as another vital forage species in the region, supporting marine mammals, seabirds, cod and other fish important to commercial and recreational fisheries. As noted in the discussion of Atlantic herring above, studies done for the Gulf of Maine cod stock assessment indicate that cod aggregate on Stellwagen Bank to feed on sand lance when abundant.²² With other historically important forage fishes diminished in

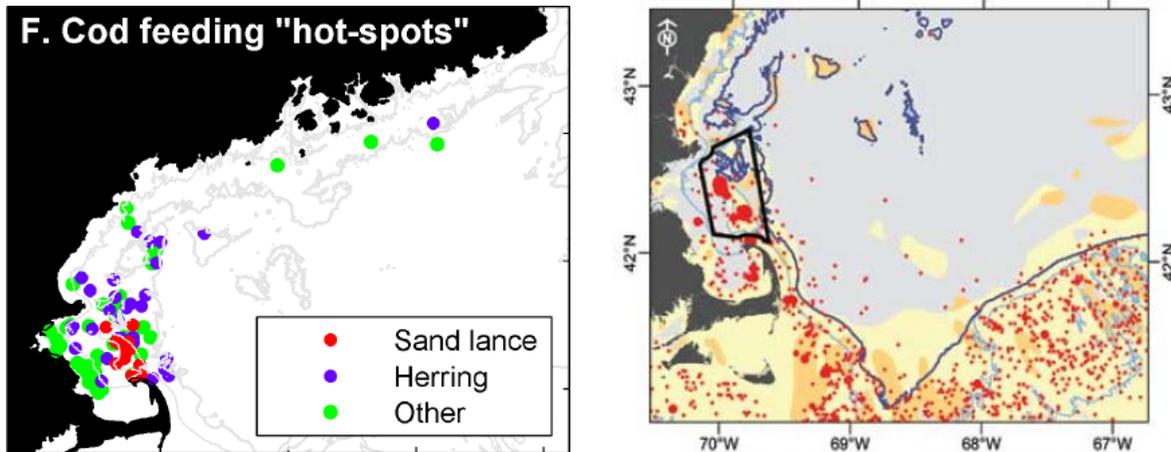


Figure A3. The left panel shows data on cod feeding based on stomach contents and the right panel depicts the distribution of sand lance, an important forage fish; abundance is proportional to the diameter of each red point (1975-2000).

the region (e.g., river herring and shad), the role of Atlantic herring and sand lance are particularly important. Analysis of the stomachs of cod has revealed that Stellwagen Bank is a foraging hotspot for sand lance consumption (Figure A3 left).²³ The map above (Figure A3 right) shows the distribution of sand lance in Southern New England including Massachusetts Bay, Stellwagen and Georges Banks and the Nantucket Shoals area.²⁴ Areas within Massachusetts and Cape Cod Bays, Georges Bank and points south which support high abundances of sand lance should be integral to an effective EFH management plan, including protection from mobile bottom tending gear, and any gear capable of catching sand lance.

Food: River herring and shad as EFH. The fate of the once abundant river herring and shad species (aloses) has received considerable attention at all the East Coast management bodies including Atlantic States Marine Fisheries Commission (ASMFC), Mid-Atlantic Fishery Management Council (MAFMC) and the NEFMC, and in a recent ESA listing decision by NOAA. Extensive work has been carried out examining the incidental catch of these forage species in ocean fisheries, including examination of places and times when at-sea mortality is highest.²⁵ Although this work has revealed discrete areas where large incidental catch events occur, there is no consideration of these alosine fishes within the context of the regional forage mosaic and the EFH DEIS. With adequate protection, alosines could again become a more important part of the regional forage base.

Food: Protecting forage species for which directed fisheries do not yet exist. Recognizing the keystone role of forage species in ocean ecosystems, the North Pacific Fishery Management Council began establishing policies regulating the

²² Gulf of Maine Atlantic Cod (*Gadus Morhua*) Stock Assessment For 2012, Updated Through 2011. 55th SAW Assessment Report. Northeast Fisheries Science Center Reference Document 13-11; Richardson, DE, Palmer MC, Smith B. 2012. The relationship of forage fish abundance to aggregations of Gulf of Maine Atlantic cod (*Gadus morhua*) and possible implications for catch-per-unit-effort indices. SAW 55 Data Meeting. August 27-31, 2012. Working Paper 4. 41 p.

²³ Slide from Presentation by Michael Palmer, March 4, 2013. *Gulf of Maine Cod: From Bankers' Hours to Bankruptcy and the Role of Fine Scale Spatial Dynamics on Stellwagen Bank*

²⁴ Figure 50, page 102, Stellwagen Bank National Marine Sanctuary Final Management Plan and Environmental Assessment (2010).

²⁵ Cournane JM et al (2013) Spatial and temporal patterns of anadromous alosine bycatch in the US Atlantic herring fishery. *Fisheries Research* 141:88– 94.

development of new fisheries for forage species in 1998 with additional amendments in 2010.²⁶ The Pacific Council is following this example with its *Unmanaged Forage Fish Protection Initiative* and is in the process of establishing similar regulations, which represents a forward looking step to ensure a future for its fisheries.²⁷ New England and the Mid-Atlantic managers must follow suit. The MAFMC is already developing approaches for addressing this important issue.²⁸ Along with sand lance discussed above, there are other species that should be put off limits to directed fishing through the EFH amendment. These include river herring and shad, krill, shrimp, and copepods, all vital food sources in the regional ecosystems.

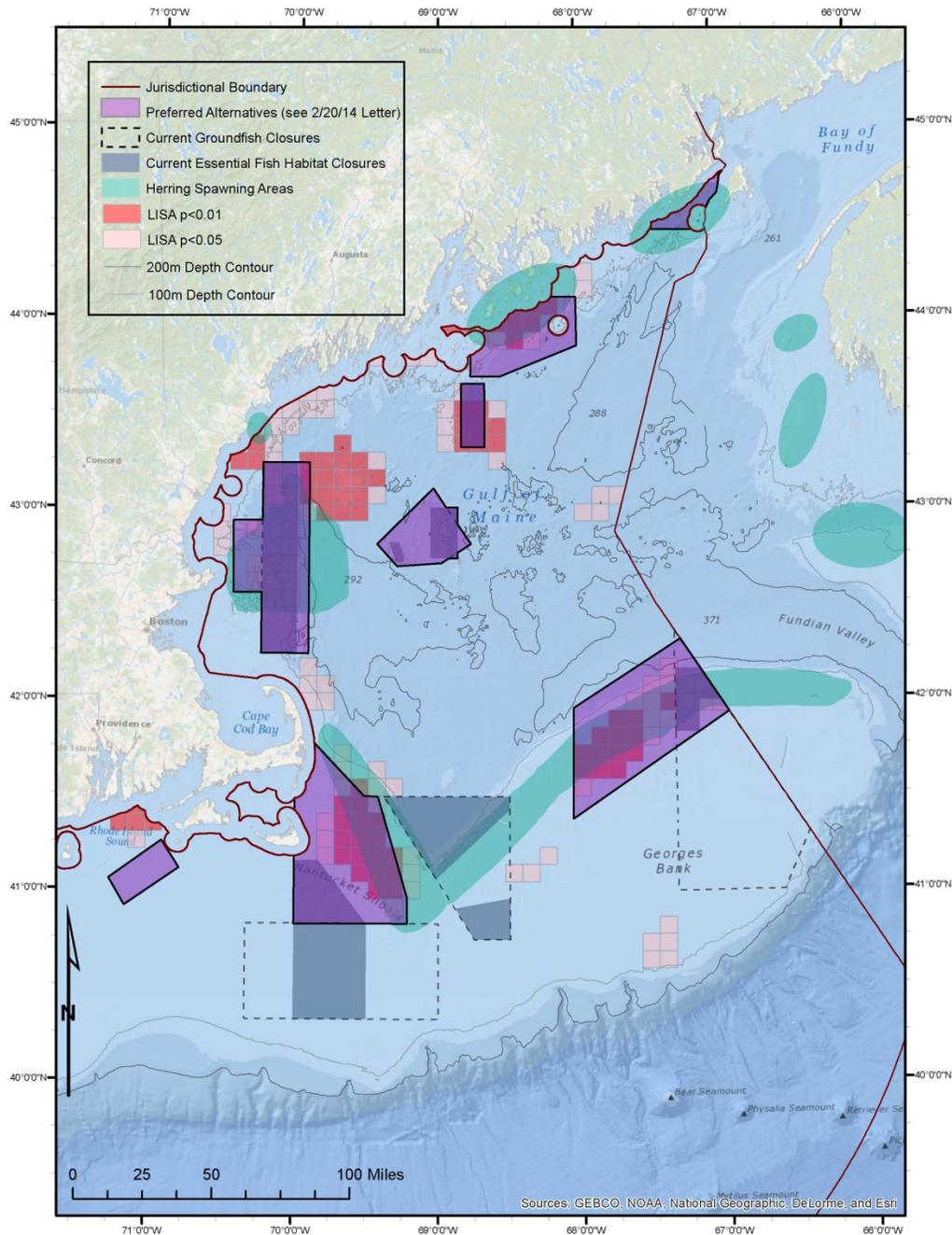
²⁶ See Final Rule implementing Amendments 36/39 to the NPFMC Groundfish FMP's at www.fakr.noaa.gov/frules/3639fr.pdf. This action identified and protected over 20 important forage species in 9 scientific families by prohibiting directed fishing on those species; 30 CFR 679; June 2004 PFMC Meeting. Exhibit G.4.a Situation Summary; Final Environmental Assessment for Amendments 87/96 to the NPFMC Groundfish FMP's at http://alaskafisheries.noaa.gov/sustainablefisheries/amds/95-96-87/final_ea_amd96-87_0910.pdf; Final Rule implementing the Arctic FMP at www.fakr.noaa.gov/frules/74fr56734.pdf

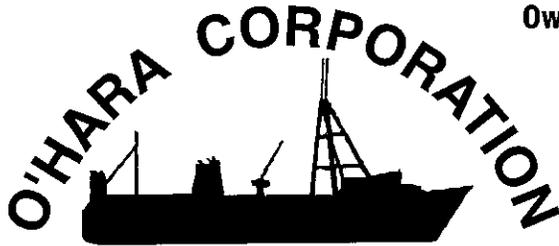
²⁷ Ecosystem Plan Development Team Report on Authorities to Protect Unfished Species from Future Directed Fisheries. EPDT Report, June 2012 (Agenda Item G.1.b); Situation summary: Unmanaged Forage Fish Protection Initiative (I2_SITSUM_SEPT2013BB); Decision Summary Document Pacific Fishery Management Council September 12-17, 2013: *Unmanaged Forage Fish Protection Initiative*, available at www.pcouncil.org/wp-content/uploads/0913decisions.pdf; Supplemental Ecosystem Workgroup Report: Ecosystem Workgroup Report on Unmanaged Forage Fish Protection Initiative (Agenda Item I. 2.b), PFMC, September 2013 (I2b_SUP_EWG_SEPT2013BB);

²⁸ Approaches for Unmanaged Forage Species. Staff Memorandum to Executive Director Moore, MAFMC, February 3, 2014, Executive Director's Report, MAFMC Meeting, Briefing Materials (Tab 10), New Bern, NC February 11-14.

Appendix III: Preferred Habitat Alternatives

Based upon the information that is available now, the eight areas shown in purple on the map below are recommended as preferred habitat alternatives for the purposes of public comment and further analysis. Note the area on the Northern Edge of Georges Bank, abutting the US/CA boundary, is now alternative 8 in the May 19, 2014 version of the OHA2 DEIS (see Map 19 – Georges Bank Habitat Management Alternative 8, [Volume 3](#), page 81). Selection of this alternative would not only protect a habitat mosaic, but could also protect a major off-shore spawning area for Atlantic herring if managed appropriately.





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Terry Stockwell, Director of External Affairs
Maine Department of Marine Resources
21 State House Station
Augusta ME 04333-0021

RE: Public Information Document (PID) for Draft Amendment 3 to ASMFC Herring FMP

Dear Terry

I provide these comments on behalf of the F/V Starlight and F/V Sunlight on the Public Information Document (PID) for Amendment 3 to the Atlantic States Marine Fisheries Commission's ("Commission") Atlantic Herring Fishery Management Plan (FMP). These vessels have ownership interests by the O'Hara Corporation and Starlight Inc. in Rockland and Vinalhaven, Maine. We are a primary bait provider in the State of Maine, in conjunction with O'Hara Bait.

We thank the Commission for initiating scoping to consider amending the states' FMP for management of the Atlantic herring resource. The following comments will focus on issues identified in the PID.

ISSUE 1: SPAWNING AREA EFFICACY

As long time participants in the Gulf of Maine (GOM) we appreciate this review of the current spawning regulations. Protection of spawning herring is an important part of the states' plan that received strong support from fishermen when enacted nearly 30 years ago. The original intent of the measures were to provide protection to ripe and running fish while continuing to offer access to the resource for fishermen and end users.

However, the information presented in the PID is not adequate to answer the management questions presented relative to closure dates, sufficient sampling and boundaries. We recommend the Commission focus their efforts in Amendment 3 on analysis to provide managers and the public with information which can lead to an informed decision making process.

The Plan Development Team (PDT) recommendation to extend the NH/MA closure by 2 weeks is onerous. This recommendation may be preferred for ease of administration, but does not

consider the impact to fisherman or end users (i.e. lobstermen). If greater protection is needed this southern closure area should be divided.

The current spawning regulations have morphed over time from 4 areas with a “tolerance” allowance - to 3 areas with no fishing allowed during the closures. Spawning protection measures no longer appear to consider a balance between protection and the needs of the fishery for this healthy stock that is not overfished and overfishing is not occurring.

The 2012 SAW 54 benchmark assessment results estimated that Atlantic herring SSB in 2011 was 517,930 mt, which is well above BMSY (157,000 mt). Estimated fishing mortality in 2011 was 0.14, which is below FMSY (0.27).

ISSUE 2: FIXED GEAR SET-ASIDE

We support the continuation of a set-aside for fixed gear fishermen in the states’ FMP in recognition of this historic gear type operating in the State of Maine. However, this issue is more complicated than the manner in which it is presented in the PID. A primary concern is the inconsistency it would create with the federal plan and current federal regulation.

In general, the set-aside is not a large percentage of the 1A annual catch limit (ACL), but the data indicates that it has provided fixed gear access to the resource and has not been a limiting factor as fixed gear fishermen additionally can fish under the total ACL when the fishery is open.

While we do not oppose consideration of the regulatory requirements of the set-aside, the data does not support utilizing the significant resources needed to amend both the states’ and federal plan and we do not support inclusion of alternatives at this time.

ISSUE 3: GEAR DECLARATION

We do not support the inclusion of measures for requiring a gear declaration prior to a quota period. The PID indicates this issue is intended to provide managers with an estimate of effort for the coming period to inform harvest control measures.

However, input from the PDT is clear that the proposed action will not achieve this goal. The PID states that the PDT does not believe this information is necessary to make projections for harvest control measures, such as “days out and that there is no guarantee declarations will make projections any more or less accurate.

Our vessels are already reporting area and gear type through VMS systems on each trip. We are strongly opposed to adding an additional reporting requirements to an already complicated system with no identified benefit.

ISSUE 4: EMPTY FISH HOLD PROVISION

As you are aware, the Commission’s discussion on this issue prompted the New England Fishery Management Council (NEFMC) to recommend measures in Framework 4 to the federal FMP that mirror those discussed in the PID. We agree with the justification presented in the PID that supports inclusion of measures to address an empty fish hold provision in Amendment 3. While the federal action is still in process, action by the Commission is timely, particularly as

the states' plan can be more restrictive in this instance.

We find the proposed action to be enforceable through random inspection similar to many of our current regulatory requirements. It will, however, be necessary to have a waiver system that allows for unusual circumstances for "spoiled" fish. This not a common occurrence in the fishery, but land disposal is not an option and we support a common sense approach.

Thank you for the opportunity to comment on the Public Information Document. We look forward to continuing to work with the State of Maine and the Commission on further development of Amendment 3.

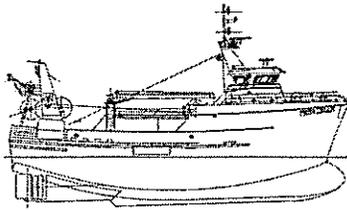
Sincerely Yours,

Frank O'Hara, Jr.

Copy: Melissa Yuen, myuen@asmfc.org

Ocean Spray Partnership

PO Box 2666, South Portland, ME 04116
446 Commercial Street, Portland, ME 04101



F/V Providian

(207) 253-5626 Telephone

(207) 253-5622 Fax

To:

Melissa Yuen, FMP Coordinator

Atlantic Herring Section, Terry Stockwell, Chair

Technical Committee, Renee Zobel, Chair

Advisory Panel, Jeff Kaelin, Chair

Comments on draft Amendment 3 of the Atlantic Herring Fishery
Management Plan

Issue 1: Spawning Area Efficacy

Are the existing provisions for spawning closure dates appropriate for protecting spawning herring? Is the default length of spawning closure (4 weeks) sufficient to protect spawning herring?

The current regulations are sufficient in protecting spawning herring. The 2012 federal benchmark stock assessment (SAW/SARC 54) determined that Atlantic herring in Georges Bank and Gulf of Maine is not overfished, but has rebuilt, and is not experiencing overfishing.

Current regulations already allow for the areas to remain closed when spawning is detected.

If spawning herring is not detected with sufficient sampling, should there be a closure?

There is no reason to close an area if spawning is not detected. A default closing without spawning fish detected could result in a double closure if spawning is detected later.

Do the existing boundaries of each spawning area adequately protect ripe and running Atlantic herring? If not, what adjustments can be made to improve their ability to protect spawning herring (ex. delineate new boundaries)? Do the three areas reflect locations and spatial scales of distinct spawning activities?

There is not sufficient scientific evidence to warrant a change.

Is commercial sampling sufficient for spawning analysis?

Yes, it achieves the goal of protecting spawning herring.

Issue 2:

Should portions of the fixed gear set-aside that are not harvested by November 1 be made available to all fishing fleets in Area 1A for the remainder of the calendar year? In other words, maintain the existing provision to roll over unused fixed-gear set aside into the Area 1A sub-quota.

The existing rollover provision should remain in place. Historically, there have been no herring harvested with fixed gear after November 1. There is no biological reason

for keeping the set aside quota after November 1. The fixed-gear boats still have access to the shared quota after November 1.

Issue 3:

Should there be a requirement for vessel owners to declare their intended fishing gear in advance of a quota period?

Absolutely not. Most of the boats are equipped with both mid-water and seine gear. The Providian and several other boats spent over \$1 million each and missed most of a fishing season to convert to purse seining when regulations changed and forced the mid water trawlers out of area 1A for most of the year. This regulation would virtually the negate the entire investment. Not having access to 1A will cause us to have a significant gap in are harvesting options. This would adversely affect our market for the entire year as our customers will know we cannot supply them year around. These conditions change day to day not season to season. The gear decision needs to be made on trip-by-trip basis. If there was to be a capacity problem (and there has not yet been any) a days out meeting could be quickly scheduled to address weekly catches/days out.

Issue 4:

Should vessel's fish hold be empty of fish prior to departure for an Atlantic herring fishing trip?

Yes, the vessel's fish holds should be empty of fish prior to departure. This issue was already addressed at the April New England Management Council meeting.

Thank You for your time.

F/V Providian

Melissa Yuen

From: Glenn Robbins <robbins62@comcast.net>
Sent: Thursday, July 17, 2014 10:05 AM
To: Melissa Yuen
Subject: Comments for fishery

I have talked to the seiners that fish in the Gulf of Maine (1A) and we would very much like to see the following rules be enacted to ensure the sustainability of this fishing for generations to come.

1. That no seiners nor carriers be allowed to take more than 500,000 pounds of herring for any trip or landing
2. That another spawning area be added south of Boon Island to Cape Cod to ensure those herring have time to drop their eggs before being caught
Note: This has been needed for years. The herring in the southern part of 1A spawn later than the herring in the northern to mid part of the area. When the western area is open, the herring caught in the southern part of 1A are not spent so they are ripe and running when taken to market.
3. That each boat that fishes for herring will declare if they will fish in 1A or not by May 1st of the fishing year. Once the decision is made to not fish in 1A, the boat may not fish in that area until October 1st of that season.
Note: This will give the people deciding how many days out for fishing more accuracy to manage the fish in 1A
4. That the 20% spawn tolerance be reinstated so that non-spawning fish can be taken in closed areas
Note: This particularly pertains to the areas such as Mount Desert Rock where smaller fish are present year round

Respectfully submitted,

Glenn Robbins
President, Seiners Association

Sent from my iPad

Atlantic States Marine Fisheries Commission



ATLANTIC HERRING

Public Hearing on the
Public Information Document for
Draft Amendment 3 to the Atlantic Herring FMP

Public Comment Sign-In

Please print clearly.

Name

Affiliation

Email (Optional)

David J. Osier

F/V Blue Water III

Osierswharf@AOL.COM

Glenn Lawrence

Double Eagle

doubleagle@roadrunner.com

Scott McNamee

None

SCOTT.McNAMEE@NOR

Dale Moore

F/V Starlight

Jody Martin

F/V Sunlight

FRANK O'HARA

O'HARA Corp.

fohara@o'hara-corp.com

Fran Kulle

JOANKULLE@YAHOO.COM

capt Michael Brewer

F/V Carol Ann

Pegie King@gmail.com

Dick

F/V Dean Vata

Paul Yan

F/V Sunlight F/V Sunlight

PAULW32@YAHOO.COM

SHAUN DODD

Western Sea

Atlantic States Marine Fisheries Commission



MADMF
June 4

ATLANTIC HERRING
Public Hearing on the
Public Information Document for
Draft Amendment 3 to the Atlantic Herring FMP

Public Comment Sign-In

Please print clearly.

Name

Affiliation

Email (Optional)

Erica Fuller

Herring Alliance

efull@earthjustice.org

Caleb Gilbert

NOAA (GARFO)

calebgilbert@noaa.gov

GREG WELLS

PEW

gwells@pewtrusts.org

JANE ELLENTON

CAPE SEAFOODS INC. Gloucester

Brad Schaudelmeier

MA DMF

brad.schaudelmeier@state.ma.us

Jerry O'Neil

CHALL / FLV WOODS VONA



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfc.org

MEMORANDUM

July 21, 2014

To: Atlantic Herring Section
From: Tina Berger, Director of Communications
RE: Advisory Panel Membership Status

For your review, please find attached the current membership list for the Atlantic Herring Advisory Panel. Information on their interest in serving, attendance record and other pertinent details are provided following their contact information. You'll find that about half of the advisors are very active (7 out of 15), with remaining advisors predominantly inactive. Two Maine advisors have resigned (Alton West and David Turner), leaving a total of three vacant seats for Maine. One Massachusetts advisor moved to Delaware (though he did express a recent interest in continuing to serve on the panel).

At your earliest convenience, please let us know what advisors you would like keep on the AP, as well as those you would like to replace. A fillable AP Nomination form can be accessed on the Commission website under Fisheries Management/Program Overview (Guiding Documents) or directly at http://www.asmfc.org/files/pub/ASMFC_AP_NominationForm_Fillable.pdf.

If you have any questions, please feel free to contact me at (703) 842-0749 or tberger@asmfc.org.

Enc.

cc: Melissa Yuen

M14-64

Atlantic Herring Advisory Panel

Maine

Jennie Bichrest (bait)
21 Sandy Acres Dr.
Topsham, ME 04086-5157
Phone: (207) 841-1454
Email: jennieplb@yahoo.com
Appt. Confirmed 3/26/97
Appt. Reconfirmed 10/1/01; 1/1/05; 5/10;
4/14

Attendance: Excellent

Glenn Robbins (comm/purse seine)
ME Seiners Assn F/V Western Sea
7 Alden Lane
Eliot, ME 03903-2102
Phone: (207)439-2079
Email: robbins62@gmail.com
Appt. Confirmed 3/26/97
Appt. Reconfirmed 10/1/01; 1/1/05;
5/10; 4/14

**Attendance: Poor (last mtg attended was
in Dec. 2008)**

Mary Beth Tooley (comm/mid-water trawl
& purse seine)
415 Turnpike Dr.
Camden, ME 04843-4437
Phone: (207)763-4176
FAX: (207)837-3537
Email: mbtooley@live.com
Appt. Confirmed 7/14/03
Appt Reconfirmed 7/07; 4/14
Attendance: Excellent

*Vacancies – Processor, commercial fixed
gear, and at-large seat*

New Hampshire

Mike Anderson (comm. trawler)
10 Washington Road
Rye, NH 03870-0055
Phone: (603) 436-4444
Email: padi.anderson@gmail.com
Appt. Confirmed 8/18/09
Appt. Reconfirmed 5/14

**Attendance: Poor (attended 2 out of 11
mtgs since appt in 2009)**

Michael Watosky (rec/at-large seat)
276 Huse Road
Manchester, NH 03103
Phone (day): (603) 434-7722
Phone (eve): (603)361-3732
Email: mwatosky@yahoo.com
Appt. Confirmed 8/18/09
- Contacted but have not received
confirmation re: interest in serving

**Attendance Poor: attended 1 out of 11
mtgs since appt in 2009**

Massachusetts

David Ellenton (Processor & bait dealer)
Cape Seafoods Inc.
3 State Pier
Gloucester, MA 01930
Phone: (617)803-8827
FAX: (978)283-3133
Email: dave@capeseafoods.com
Appt. Confirmed 6/4/97
Appt. Reconfirmed 10/1/01; 12/10/05;
5/10; 4/14
AP Chair: 2006 – 5/31/12
Attendance: Excellent

Peter Moore (comm/mid-water trawl)
MARACOOS
318 South College Ave.
Newark, DE 19711
Email: moore@maracoos.org
Appt. Confirmed 7/14/03
Appt. Reconfirmed 8/07; 4/14

- **Was appointed by MA DMF;
moved to DE**

Attendance: Good

Stephen B. Weiner (At-large, comm. bluefin
tuna harpoon)
12 Judson Road
Andover, MA 01810
Phone (day): (978)764-3637
Email: weinersb@gmail.com

Atlantic Herring Advisory Panel

Appt. Confirmed 8/18/09

Appt. Reconfirmed 4/14

Attendance: Good

Captain Patrick Paquette (rec. & for-hire)

MA Striped Bass Association

61 Maple Street

Hyannis, MA 02601

Phone: (781)771-8374

Email: BasicPatrick@aol.com

Appt. Confirmed 2/1/10

Appt. Reconfirmed 4/14

Attendance: Good

Rhode Island

Philip Ruhle Jr (At-large, comm. trawl – multispecies)

28 Serenity Way

Peacedale, RI 02879

Phone (cell): (401)265-8862

Phone (home): (401) 792-0188

FAX: (401) 788-8275

Email: pruhle@cox.net

Appt. Confirmed 11/2/09

Appt. Reconfirmed 6/13

- Contacted but have not received confirmation re: interest in serving

Attendance: Poor (has never attended a mtg)

New York

Mark Phillips (comm/otter trawl)

Seafood Harvesters Association

210 Atlantic Avenue

Greenport, NY 11944-1201

FAX: (631)477-8583

Appt. Confirmed 5/30/96

Appt. Reconfirmed 9/15/00; 1/23/06; 5/10

- Contacted but have not received confirmation re: interest in serving (phone number on file not working)

Attendance: Poor (has never attended a mtg)

New Jersey

Greg DiDomenico (comm.)

Garden State Seafood Association

13103 Misty Glen Lane

Fairfax, VA 22033-5080

Phone: (609)898-1100

FAX: (609)898-6070

Email: gregdi@voicenet.com

Appt. Confirmed 1/23/06

- Contacted but have not received confirmation re: interest in serving

Attendance: Poor (attended 1 out of 11 mtgs since appt in 2006 and that mtg was in 2009)

Chair – Jeff Kaelin (comm. trawl and purse seine) (5/12)

Lund's Fisheries, Inc.

PO Box 830

997 Ocean Drive

Cape May, NJ 08204-0830

Phone: (207) 266-0440

Office: (609)884-7600 x213

Email: jkaelin@lundsfish.com

Appt. Confirmed 8/18/09

Appt Reconfirmed 4/2014

Attendance: Excellent

Vacancy – At-large seat

Nontraditional Stakeholders

Dana B. Rice Sr. (lobster & herring processor)

P.O. Box 57

Birch Harbor, ME 04613-0057

Email: danarice15@yahoo.com

Phone: (207)963-7600

Appt. Confirmed 11/2/09

- Contacted but have not received confirmation re: interest in serving

Attendance: Poor (attended 2 out of 10 mtgs since appt in 2009)

Atlantic Herring Advisory Panel

Kristan Porter (comm. lobster trap)

P.O. Box 233

Cutler, ME 04626

Phone (cell): (207) 460-0560

Phone (eve): (207)259-3306

Email: kbporter5@roadrunner.com

Appt. Confirmed 11/2/09

Appt Reconfirmed 4/14

**Attendance: Poor (attended 1 out of 10
mtgs since appt in 2009)**