

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

Crowne Plaza Hotel - Old Town
Alexandria, Virginia
August 6, 2013

Approved October 28, 2013

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ATTENDANCE

Board Members

Rep. Walter Kumiega, ME (LA)	Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)
Terry Stockwell, ME, proxy for P. Keliher (AA)	David Simpson, CT (AA)
Steve Train, ME (GA)	Rep. Craig Miner, CT (LA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	James Gilmore, NY (AA)
Doug Grout, NH (AA)	Pat Augustine, NY (GA)
G. Ritchie White, NH (GA)	Anthony Rios, NY, proxy for Sen. Boyle (LA)
Jocelyn Cary, MA, proxy for Rep. Peake (LA)	Peter Himchak, NJ, proxy for D. Chanda (AA)
David Pierce, MA, proxy for P. Diodati (AA)	Tom Fote, NJ (GA)
Bill Adler, MA (GA)	Adam Nowalsky, NJ, proxy for Asm. Albano (LA)
Mark Gibson, RI, proxy for R. Ballou (AA)	Kelly Denit, NMFS
Bill McElroy, RI (GA)	

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

Ex-Officio Members

Michael Eastman, Law Enforcement
Representative

Jeff Kaelin, Advisory Panel Chair

Staff

Robert Beal
Toni Kerns
Kirby Rootes-Murdy

Katie Drew
Melissa Yuen

Guests

Loren Lustig, Gov. Appt., PA
Ross Self, SC DNR
Joe Fessenden, ME Marine Patrol
Patrick Pacquette, MSBA
Wilson Laney, US FWS
Raymond Kane, CHOIR
Roger Frate, West End Lobster Assn

Joanne Frate, Darien Seafood
Aaron Kornbluth, PEW Charitable Trusts
Joseph Gordon, PEW
Benson Chiles, Chiles Consulting
Jeffrey Pierce, Alewife Harvesters of Maine
Tom Rudolph, Pew Charitable Trusts

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Presidential Ballroom of the Crowne Plaza Hotel Old Town, Alexandria, Virginia, August 6, 2013, and was called to order at 10:00 o'clock a.m. by Chairman David Pierce.

CALL TO ORDER

CHAIRMAN DAVID PIERCE: Good morning, everyone. Would you please take your seats so we can begin our meeting? Thanks to the staff for not scheduling this for eight o'clock in the morning. This is a rare sea herring section meeting that is not meeting at eight o'clock, but at a more decent hour, ten o'clock, to give travelers an opportunity to get here without having to come the day beforehand. Once again, thanks to the staff for all of that consideration.

For those of you who don't know me, and some of you may not, I'm David Pierce, the current chairman of the Sea Herring Section; and to my right is Melissa Yuen, who is the staffer who deals with all of our sea herring issues for the section. On my left is Jeff Kaelin, who is Chair of the Advisory Panel.

APPROVAL OF AGENDA

CHAIRMAN PIERCE: You have before you our agenda. Is there any other business that Section members would like to identify at this time? All right, I have just one piece of other business that shouldn't take much time, and that is a brief discussion of Amendment Number 5 and the recent decision by NOAA Fisheries relative to what was approved and disapproved in Amendment Number 5, an amendment that this Section has heard presented in great detail by council staff, Lori Steele, at least twice. It is interest to all of us, so I'll give you a brief update on that.

With no objection to the agenda as you have before you, we will adopt it by consent. It is adopted.

APPROVAL OF PROCEEDINGS

Approval of the proceedings from May 2013; I assume everyone has had a chance to look it

over. Is there any discussion on the proceedings of our last meeting in May? Is there a motion to approve those proceedings? I see a motion from Pat Augustine; seconded by Bill Adler. I assume there is no objection to that motion. I see none; therefore, the proceedings are adopted.

PUBLIC COMMENT

CHAIRMAN PIERCE: Public comment, as always we offer the audience an opportunity to comment on issues related to management of the sea herring fishery, issues that we will not be discussing today. Is there anything new relative to sea herring that public would like to address at this time, issues that are not germane and not applicable to Addendum Number VI, which, of course, is what we're going to act upon today; then please raise your hand and I will recognize you.

DRAFT ADDENDUM VI FOR FINAL APPROVAL

CHAIRMAN PIERCE: On to Draft Addendum VI for final approval, we are aware that we have already adopted the draft addendum with a number of measures, most of which, if not all of them, have been proposed through the addendum to complement what was done by the New England Fishery Management Council; actually more that.

Some of the action actually is specific to Section consideration and not the council. We have final action to take on that draft addendum, so I will turn to Melissa and ask her to summarize the comments that we received at our hearings, and also, of course, to describe for our benefit the options themselves.

MS. MELISSA YUEN: I will now go over Draft Addendum VI to the Interstate Atlantic Herring Fishery Management Plan. At this point, the draft addendum has gone out for public comment with a public comment period that ended on July 19th. We are now at the final step, Section review and consideration for final approval.

As a quick review, Draft Addendum VI complements the New England Fishery

Management Council's Framework Adjustment 2. The council submitted Framework 2 to NOAA Fisheries, which parallels the 2013 to 2015 specifications. The framework authorizes the council to split annual catch limits seasonally during specifications process.

It also establishes a policy for annual carryover of up to 10 percent of unutilized sub-quota under specific conditions. The council proposed new accountability measures to close the directed fishery when 92 percent of the sub-ACL is reached and then close the stock-wide fishery when 95 percent of the total ACL is reached.

On August 2, 2013, NMFS published a proposed rule for the council's recommendations. There is a 30-day comment period ending on September 3. This map shows the four management areas for Atlantic herring. Currently the Interstate FMP has a trip limit trigger and seasonal splitting provisions for Area 1A, but not for Areas 1B, 2 and 3.

There are no provisions for quota rollover for the four management areas. Therefore, the draft addendum was necessary for consistent provisions across the management areas. In February 2013, the commission's Atlantic Herring Section set annual catch limits for 2013 through 2015 seasons at just under 108,000 metric tons. This is an 18 percent increase from 2010 to 2012 limits. This new stock-wide specification is identical to the ACLs adopted by the council.

There are four issues proposed in Draft Addendum VI.

Issue 1 proposes seasonal splitting for Areas 1B, 2, and 3. Option 1, status quo, is to not allow seasonal splitting for these additional areas. Seasonal splitting will still be allowed for Area 1A. Option 2 will still allow states to seasonally split the sub-ACLs in all management areas to maximize the value through Atlantic herring fisheries. The actual splits can be set as part of the specifications process.

Issue 2, quota rollover for all areas: Option 1, status quo, no quota rollover for management

Areas 1B, 2 and 3. Area 1A will continue to have a rollover provision of unused quota to remaining periods in the fishing year. Option 2; to allow for up to 10 percent of unused quota in the management area to carry over to the first fishing season with landings data provided that the total ACL is not exceeded.

Under this option, the following provisions will also apply. All harvest control measures will continue to apply to stock-wide and sub-ACLs. All carryovers will be based on initial sub-ACL allocations for the fishing year. Sub-ACL carryovers will only be authorized if the total ACL for the fishing year is not exceeded. Provisions for carryovers, including percentages and amounts, can be modified in the future through Atlantic herring specifications process in addition to framework adjustments and amendments. Unused quota may be rolled over from one season to the next within the fishing year.

Issue 3: Trip limit triggers for all areas. Option 1, status quo, is no trip limit triggers for Areas 1B, 2 and 3. The directed fishery in Area 1A will reduce to a 2,000 pound bycatch allowance if 95 percent of the sub-ACL is reached. Option 2: establish a trigger to close directed fisheries in the management area when 92 percent of the sub-ACL is reached and then close the stock-wide fishery when 95 percent of the total ACL is reached. A 2,000 pound bycatch allowance would then continue when the directed fishery is closed.

Issue 4 is the specification process. Status quo is to use the addendum process to change sub-ACL triggers. Option 2 is to use the annual specification process as triggers. Those are the options in Draft Addendum VI.

I will go right to the summary of public comments at this point. The document went out for public comment on July 19th, as I mentioned earlier. We had three public hearings in New Hampshire, Maine and Massachusetts; a total of three participants not including staff attended those meetings, zero in two of those meetings. We didn't receive any written comments. There was general support for the alternative options,

the Options 2 for each of the four issues proposed.

Staff also held conference calls with the technical committee and advisory panel. Their reports are included in the briefing materials. The TC Chair is not here today, so I will sum up the TC's input. There was general support for alternative options; Option 2 for all four issues. That concludes my presentation.

CHAIRMAN PIERCE: All right thank you, Melissa. Questions for Melissa? All right, then we'll go on to Jeff Kaelin, who will provide the Advisory Panel Report.

ADVISORY PANEL REPORT

MR. JEFF KAELIN: Thank you, Melissa, for putting this together. There was a conference call on July 22. I'm not sure we had a quorum, but there were several interested advisors on the call. Similar to the recommendations of the technical committee, the AP supported Option 2 for seasonal splitting, which allows for seasonal splitting; Option 2 which allows for quota rollover in year three; and Option 2 concerning harvest control measures to close at 92 percent.

There were some comments from AP members about asking why a 92 percent trip limit trigger is necessary since the 95 percent trigger has worked since implementation in 2009 for Area 1. We've gone to weekly reporting – excuse me; I think we're daily reporting. I think that is a mistake. We report daily in the fishery.

The 92 percent was obviously an extra safety measure, an extra layer of precaution against closures – or overages, rather. The AP noted that in recent years there have been overages for Area 1A's quotas, but they were minimal, under 5 percent, and accountability measures are already in place to reduce the quota accordingly for the following year. It is actually year 3.

It was just a comment. We have gone to daily reporting, and I think people in the industry are concerned that it still takes six months to figure out how much was caught given the fact that we've gone to daily reporting. The AP also supported Option 2 concerning the specification

process for sub-ACL triggers. That ends my report.

CHAIRMAN PIERCE: Any questions for Jeff? I wanted to make note of the fact that Jeff Kaelin has a new role, a new responsibility. For those of you who may not know, he has been appointed to the Mid-Atlantic Fishery Management Council. Therefore, he will no longer be in the audience.

He will be at the table and likely will be involved in many of the discussions and debates that the New England Council has in concert with the Mid on sea herring management rules, as well as, of course, mackerel. Welcome aboard, Jeff, in that new capacity. It is well deserved. All right, if there are no questions for Jeff.

MR. PETER HIMCHAK: I had one question. If multiyear specifications are set in herring, which they are for three years, and there is an underage in one area and you allow 10 percent to be carried over; but the other two areas max out on their sub-ACLs; essentially you forego the opportunity to carry over the underage because you can't exceed the total ACL. Is that correct?

CHAIRMAN PIERCE: I'll turn to the Chair of the New England Council. Doug, can you answer that question? I'll punt that one.

MR. DOUGLAS E. GROUT: What it is, is if there is an underage in one particular area but the overall ACL, the stock-wide ACL has been utilized; then you are right, the underage would not be able to be rolled over in that particular management area. It is only if there is an underage also in the overall stock-wide ACL that you can roll over underages in a sub-ACL.

MR. G. RITCHIE WHITE: A question for Jeff. Where you didn't have a quorum; is that something that has taken place in prior meetings and phone calls? I probably should know that; but I don't remember. If so, is there something we should be doing to reinvigorate our advisors?

MR. KAELIN: I don't think it is the first time it has happened, but in this case this is sort of a noncontroversial measure. I don't think we've lost much. I think what we've done in the past is bring everyone's comments to you even if we haven't had a quorum. I don't really know personally – I haven't looked at the list to see if it should be repopulated.

But I would think if we don't have anybody participating for two or three meetings, maybe there is an ASMFC policy about repopulating the AP; but this case there was unanimity, I think, and again not a lot of controversy. This one went pretty smoothly, but I get your point.

CHAIRMAN PIERCE: Yes, the lack of attendance at the public hearings I think supports what Jeff just said. In my particular case I traveled to Gloucester for our public hearing, and I was able to talk to staff about other issues since no one was in attendance. Again it was a noncontroversial addendum, which makes our job a bit easier at least today.

MR. DENNIS ABBOTT: Doug Grout and I also had an interesting hearing as the only attendees. We talked about a lot of other things. I have a couple things. The first one I think maybe is a question for our parliamentarian, when we meet I think it is Thursday morning, about whether a group such as the advisors as Jeff encountered, whether that group can bring their comments to the board as a group. Being that they didn't have consensus, it is questionable about whether comments could be made if you don't have a majority.

The second and more important thing is it is probably self-evident, but what is the plan for if we go to dividing up or setting up the new arrangement for 1B, 2 and 3; would the states just opt in? Would we have a session where we say we'll be part of the 1B group and part of the 1 group, 3 group? Because we know in 1A, it is New Hampshire, Maine and Massachusetts; how would that work?

CHAIRMAN PIERCE: Regarding your last point, I suspect that we'll have to have some discussion as to what states would want to be

involved in a similar arrangement that the states of New Hampshire, Maine and Massachusetts have with Area 1A. We haven't yet discussed that particular issue. We can bring it up to day if anyone cares to.

Perhaps in other business I'll ask if there is any interest on the part of the states in being part of subgroups, so to speak, where they would get together to discuss similar situations, similar days off, for example, and other measures that might be appropriate for those particular areas.

With regard to your first point, I would suggest that what Jeff has brought forward is just general discussions of opinions expressed by those advisors who were present. No motions were made. Because no motions were made, it doesn't reflect – we're not faced with having to deal with a formal position established by the advisors.

MR. KAELIN: We've just operated by consensus; and if there has not been consensus, we've been careful to make sure that everyone's comments to the contrary have been noted. But we don't take motions; there are no motions. There is no real parliamentary procedure that we pursue.

On the splitting of 2 and 3, just because I'm in the business, I'll tell you that there is no interest in the industry to split 2 or 3, so I don't think the board needs to get too excited about setting up the kind of situation we have in the Gulf of Maine. It was just an option that was put on the table early in the process to try to stretch out the Area 2 quota specifically.

Then there seemed to be some utility in Area 1B, but the people that are working in Area 2 are not interested in splitting 2, particularly now that we have additional fish being allocated into the area. That is just a comment from me as someone who is knowledgeable about what people are thinking; and that is not to split 2.

CHAIRMAN PIERCE: Regarding the splitting of the areas and the possible arrangement of different states to take advantage of – well, just to make the break within the areas, perhaps

under Option 2, specification process for the sub-ACL triggers; Option 2 would provide us with the opportunity not necessarily today but at some future meeting during the annual specification process to determine what states will be involved in those decisions related to those specific areas. All right, anything else?

MR. WILLIAM A. ADLER: On one of these things here it says that when the quota gets taken, the whole fishery will close down. Is that the way it is now? Maybe it has never happened that the whole quota for the whole world has been taken to the point where everything would close down even if one area hasn't reached its quota. Like, let's say, 1A didn't; they are doing their thing and everybody else in 2, 3, 1B takes a lot. Does that mean that the whole fishery gets closed down? I don't think that has ever happened, but is that the way it is now, or is that a new idea?

CHAIRMAN PIERCE: Well, the way it is now, we'd be under Option 1 for 3.3. We decided or at least we may decide through this addendum to go in a different direction that is described in Option 2. Any additional questions?

MR. TERRY STOCKWEL: Not so much a question as it is a comment. In general I support all the measures in Option 2 for each of the sections, but I do want to highlight to the entire Section the great amount of work that the states of Maine, New Hampshire and the Commonwealth have put into micromanaging Area 1A. Over the years we've met a lot. Areas 1B and 3 have cross-cutting interest to all of our states. I think we need to think very carefully about how we move forward should this addendum be approved today.

MR. PATRICK H. AUGUSTINE: Are you ready for a motion, Mr. Chairman? I think we answered most of the questions. The one question I had was the one that was answered by the technical committee. Jeff did a good job in explaining what the industry's position was and concern about that one item where he thought there might be a period of time of confusion.

You said six months to – I think it is something that was under the specification process for sub-chapters. I think you said at the end of your report that there was some discussion or concern about clarity of how that would be set out. You said you thought it would take something like – you used the term six months.

MR. KAELIN: Well, Pat, if you look at the report under 3.3, there is a comment that some people on the call were questioning why we need to go to 92, because we've already gone to daily reporting in this fishery and people are having a hard time understanding why it takes six months to figure out what we've caught now that we've gone to daily reporting.

The six months comes from I think actually language in the specification document that I just read this morning the justification for not allowing the underage in year 2, but instead requiring that the underage doesn't occur until year 3 is because the agency is saying it takes six months to figure out how much has been caught.

The point that I made for the AP was that people are wondering why it still takes six months when we've gone to daily reporting, because we're all trying to get to real-time management. A little bit of an editorial comment, but it was consistent with the issue that was raised on the phone, I think.

MR. AUGUSTINE: Right, I understand why you selected Option 2. Thank you.

CHAIRMAN PIERCE: I'm ready when you are, Pat.

MR. AUGUSTINE: Thank you, Mr. Chairman. I thought it was a lively discussion and cleared up some points that we all had some concern about. **I move the board approve for final Addendum VI with the following options:** Management Options 3.1, seasonal splitting of quotas for Areas 1B, 2, and 3; Option 3.1.2, Option 2, allow states to seasonally split the sub-ACLs in all management areas to maximize value to the Atlantic herring fisheries. The actual splits amount or percentages by months,

trimesters or seasons would be set as part of the specification process.

Under Option 3.2, quota rollover for all management areas, Option 3.2.2, Option 2, allow for up to 10 percent of unused quota in a management area to carry over to the first fishing year after final landings data are available within that same management area provided that the ACL is not exceeded for the entire fishery.

The stock-wide ACL will not be changed from the annual specification. This adjustment for areas with unused quota is intended to provide some flexibility to the fishing industry; and furthermore, unused quota in one period may be rolled over to the next period within the same fishing year.

Under 3.2, harvest control measures trip limit triggers; Option 3.3.2, Option 2. This option establishes triggers to close directed fisheries in a management area when 92 percent of the sub-ACL is projected to be reached and then close the stock-wide fishery when 95 percent of the total ACL is projected to be reached. A 2,000 pound bycatch allowance will continue when the directed fishery is closed. Under 3.4, specification process for sub-ACL triggers; 3.4.2, Option 2, Sub-ACL triggers will be set using the annual specification process.

CHAIRMAN PIERCE: All right, we have a motion, which basically is Option 2 for Sections 3.1 through 3.4. Thank you, Pat.

MR. STOCKWELL: **I'm seconding it with the comment that he broke the Dr. Pierce rule egregiously.**

CHAIRMAN PIERCE: I was going to comment. I was going to say that but I appreciated the detail that Pat has given us relative to what exactly we are approving. I've violated the Pierce rule many times already, so I may as well let Pat do it. Option 2 for all of those Section 3.1 through 3.4. Is there a second to the motion? Right, Terry has seconded the motion.

I assume there might be a need to caucus amongst the states; perhaps not? All right, while the states are caucusing, I'll go to the audience. Does anyone care to comment on the motion? I see none. **I assume that all the states are now in agreement as to whether the motion should be approved.**

MR. WHITE: Would it make sense to clarify the motion in that you're taking a lot of what Pat said out of the motion? Would it make sense to kind of read the final motion?

CHAIRMAN PIERCE: You really wanted to read the final motion? All right so here we have another take on Pat's motion and it is the correct take. All right, I will read the motion. Pat, you can then tell us whether this is the motion you have made.

MR. AUGUSTINE: Did you include the word final or is it assumed it's final?

CHAIRMAN PIERCE: Well, actually, I suggest that we vote on this motion and then I will entertain another motion that would be to adopt the addendum itself. Right now we're just approving the specific options within the document itself. Okay, let's see if I can read it. The motion is to move to approve 3.1, seasonal splitting of quota for – I think this is a bit more complicated than it needs to be.

Nevertheless, okay, once I read this, it belongs to the section. It still doesn't look right. Toni, I think the first line is wrong. Okay, it's in there now. Move to approve 3.1, seasonal splitting of quota for Areas 1B, 2 and 3. That still doesn't read right. Rewind again; it doesn't read right, it has got too many approves.

I think we have got it: Move to approve Section 3.1, seasonal splitting of quota for Areas 1B, 2 and 3, Option 2; under Section 3.2, quota rollover for all management areas, Option 2; for Section 3.3; harvest control measures trip limit triggers, Option 2; for Section 3.4, specification process for sub-ACL triggers, Option 2. That's the motion by Mr. Augustine and seconded by Mr. Stockwell. Is that your motion, Pat?

MR. AUGUSTINE: Yes, Mr. Chairman.

CHAIRMAN PIERCE: Everyone has had an opportunity to caucus. All those in favor of the motion, please signify by raising your hand. Is there any opposition to the motion? **The motion is approved.** Now I look for a motion to adopt the addendum with the options that we have selected.

MR. GROUT: I think before we go to final approval, we have to determine an implementation date for this. **I would make a motion that the implementation date be January 1, 2014.**

CHAIRMAN PIERCE: All right, we have a motion that the implementation date for the addendum be January 1 of 2014. Is there a second to the motion? That would be Bill Adler. Discussion on the motion? It seems to be an adequate enough time for all states to do what needs to be done to get this addendum in place. Is there any need for caucus? We have a question.

MR. KAELIN: If you don't implement this until 2014 from the perspective of the states, what happens to the additional quota that is available in 2013 under the specifications? Would that in any way slow down our ability to take the fish that would be allocated in 2013? I wanted to raise this issue at the end of the meeting. My specific concern is right now Area 2 is closed. We took 22,000 tons out of Area 2.

The agency is telling us on the website that the fishery will not reopen in Area 2 until January 1 of 2014. However, if these specifications that were published are approved this summer or later this fall, there is 8,000 tons of herring that could be applied to Area 2 before the end of the calendar year. Do you understand what I'm saying, Mr. Chairman?

I wanted to raise that issue for the board later on because right now our contacts with the agency, nobody understands that, it seems. There is a potential for a fall fishery in Area 1 of several thousand extra tons if the specifications are

approved. My question is, if you delay implementation of this addendum until January 1 of 2014; would that in some way keep us from landing the additional herring in the states this fall if we can talk the agency into making the allocation into Area 2 the way we all expected it to go? Do you understand my question, Mr. Chairman?

MR. GROUT: Well, the way I would read this, this particular addendum is providing options for the states to seasonally split quotas, change the triggers to roll over. It doesn't say that we're implementing any of these three things. We would then have to, through a follow-up specifications process, implement some of these particular measures. From a federal standpoint, I think what they're going to do is the quotas in the sub-ACLs will be increased, but that doesn't have anything to do with this particular addendum. At least that's the way I see it.

MR. KAELIN: Thank you; I just wanted to make that clarification.

CHAIRMAN PIERCE: That's a good point raised by Jeff and a good response from Doug. The ASMFC, the Sea Herring Section is ahead of the New England Council and the National Marine Fisheries Service in terms of the quotas that we adopted for all the different areas; 30,000, for example, for Area 1B. This addendum also puts us ahead of the federal government, the council as well, because it is a proposed rule right now by the federal government, which I anticipate will eventually be adopted as final, but we are ahead of the federal process.

MR. AUGUSTINE: To that point; clarity on the question; what happened to the 3,000 ton? They're lost? In regard to what Jeff just said, I was trying to follow what Doug had said. If we adopt it, we don't adopt until January of 2014, but right now it is closed; and if those fish aren't going to be able to be taken, are they lost?

How do you recapture them? Is the council going to allow that to happen, the 3,000 pounds we're talking about; the leftover in the area that is closed right now? I'm a little confused on it,

so if someone would just clarify that point. It sounds like fish are lost that are out there that are not going to be harvested, and they're not going to be able to get back. Is that true?

CHAIRMAN PIERCE: Pat, the New England Council meets in September; and at that time I suspect we will get the word from NOAA Fisheries regarding where they are with the framework. I anticipate that by then or shortly thereafter we will be able to get some word from the Service as to whether or not they will reopen Area 2, because the quota will have been increased through that framework action.

That is what I expect. As Chair of the Section and as a member of the New England Council, and, of course, with Terry and Doug also as members of the New England Council, I suspect we'll push this point as well just to make sure that no fish is left on the table. If the quota is increased, then fishermen should be allowed to take it. I'll turn to Terry for additional comment.

MR. STOCKWELL: You just made essentially the same comment I was going to make, but I have a friendly for Doug and Bill, and that would be to insert by January 1st. In the event that the council is able to work with the agency to utilize that fish this fall. Part of it is also dependent upon the conversation we're going to have after the final vote on the process that we're going to use to get there. I think we need to spend some time on that.

CHAIRMAN PIERCE: Okay, Terry has made a suggestion for a friendly amendment. Doug, do you find it friendly? Okay, all right very friendly; therefore, if the motion would please be changed to reflect that suggestion from Terry. All right, all set, Terry? Are there any further comments on the motion? I see none. Any objection to the motion?

EXECUTIVE DIRECTOR ROBERT E. BEAL: On the motion, it reads a little strange; move to have the implementation by January 1. I think move to have the addendum implemented on or before January 1, something like that may read a

little better and convey I think what Terry is trying to do.

CHAIRMAN PIERCE: All right, we have a suggestion from the Executive Director. It sounds like a good one. Terry and Doug, thumbs up? All right, therefore, let's change the motion to reflect that language. Is that what you had in mind, Bob? Okay, so Bob has indicated that this would be a more sensible way to go, and I agree.

Move to have the addendum implemented on or before January 1, 2014. Motion by Mr. Grout, seconded by Mr. Adler. I assume the seconder does not object to this change, okay; and the maker of the motion also feels comfortable with it. All right, if there is no objection to the motion, it will be approved. **Okay, the motion is approved.** Now I think we've come to – unless staff corrects me, now is time for us to take final action on the addendum.

MR. STOCKWELL: **I move to approve Addendum VI as amended.**

CHAIRMAN PIERCE: We have a motion from Terry; seconded by Dennis Abbott; and that motion is to approve Addendum VI as amended. Is there a need for a caucus? I see no interest in that. All those in favor of the motion, please signify by raising your hand. That's right, it's a roll call. Final action requires a roll call. Melissa will call out the names and please respond accordingly. Ritchie, question?

MR. WHITE: I think if you ask and there is no objection, you don't have to go through calling all the names.

CHAIRMAN PIERCE: Okay, who called for the roll call? I thought it was staff. No?

EXECUTIVE DIRECTOR BEAL: The new procedure approved by the policy board was to have a record of the votes in all final action; so if there is no objection, then the record would show that everybody in the room is in favor of approving this addendum for this instance. But if the board is split, then a roll call would be needed.

CHAIRMAN PIERCE: All right, thank you, so a roll call is not needed. There is no objection? All right, so there is a roll call. All right, Melissa, if you would please.

MS. YUEN: Maine.

MAINE: Yes.

CHAIRMAN PIERCE: All right, we'll rewind again. Staff, would you please tell us if we need a roll call. It is a final action.

EXECUTIVE DIRECTOR BEAL: You will have a record of the votes; essentially a roll call vote if you ask and there is no objection so that everybody in the room will have by default been in favor of this motion, because there is no objection. You have a roll call and a record of how everybody voted, but you don't need to go state by state. It is a semantics thing, but is supposed to save time. I don't think it is.

CHAIRMAN PIERCE: It is not saving time because it is confusing the heck out of me. All right, so we don't need a roll call. There is no objection to our not having a roll call. All right, so there is no objection to our not having a roll call; therefore, I will assume that there is no objection to this motion. **I see no objection to this motion; therefore, the motion is approved.** Now we're on to other business.

OTHER BUSINESS

I indicated that what I wanted to do was touch base on Amendment Number 5. I certainly could turn to the Chair of the Sea Herring Committee of the New England Council, Doug Grout, for that update, but I don't think it's necessary. I'll just touch on a few things. First of all, the National Marine Fisheries Service has partially approved Amendment Number 5 to the Sea Herring Plan.

That amendment, if you recall, was developed to improve the catch monitoring program and to address bycatch issues in the fishery. Most of the measures in Amendment Number 5 were adopted, but some were not. The Service indicated there were specific reasons why after

public comment they could not adopt all of the measures within the plan.

They indicated that there were legal concerns regarding some of the options, some of the proposals, some of the decisions by the New England Council, some administrative concerns. To say the least, this partial approval has generated some consternation and some concern in some quarters.

However, I'm first to admit that the Service did indicate in the proposed rule for the amendment that they had serious concerns about some of the provisions in that amendment and apparently after the public comment period had ended they were convinced that they could not adopt all of the measures because of these legal concerns, administrative concerns, and the fact, according to the Service, the New England Council did not provide enough justification for some of those measures.

One of the key aspects of Amendment Number 5 was 100 percent observer coverage with there being a cost-sharing of observer costs, the industry paying for some of those costs. That was not adopted by the service. My understanding is the primary reason for that is that this strategy of cost-sharing for observer costs cuts across many fisheries management plans.

The Service has indicated that they have assembled a working group comprised of their own staff, the Northeast Fishery Science Center staff and the New England Council to come up with some strategy that would entail a workable and legal cost-sharing program regarding how observers would be paid for. That was their conclusion.

For those of you who read Federal Register announcements, this one goes on forever, extremely detailed. I compliment the National Marine Fisheries Service for the creativity and for the detail, the careful thought they put into these Federal Register announcements. They are fascinating reads. Frankly, much of the justification the Service has offered up for their

approval and for their disapprovals on their face sounds reasonable.

This Section will benefit from New England Council discussion of the partial approval of Amendment 5. This discussion will occur at the New England Council's September meeting, where many more details will be provided, when we will have in our hands the actual final rule. I don't believe the final rule is out yet. We just have an announcement from the Service as to what they have approved and what they have not approved.

I am not going to go into any further detail. I don't believe there is any motion or action required by this Section at this time. There may be at our next meeting, depending upon what the Service provides for all of its rationale regarding the disapproval of some of these measures. That is as far as I'm going to take summary of an update of Amendment Number 5. I'll turn to the Section members to see if anyone else has anything else they would like to offer up on Amendment 5 issues.

MR. ADLER: Currently while the federal government is working on final things; what is the status right now of observer coverage and who pays for it right now? How does that work now?

CHAIRMAN PIERCE: Well, the industry does not pay for observer coverage. The observer coverage is paid for by the federal government to the extent that it can pay for that coverage. The number of trips by area, by a gear type that will be sampled in the upcoming year has already been determined by the Service.

It is not 100 percent. I suspect it is probably around 40 to 50 percent, something like that, but I would have to check the numbers. It is far short of 100 percent, which was the New England Council's desired coverage with again the cost-sharing for that observer coverage. This was one of the key issues of Amendment Number 5; getting good information, accurate information regarding what actually is caught by the herring vessels when they're pursuing that pelagic species.

They'll be at the September council meeting, I'm sure. Concern expressed by the fishing industry, concern expressed by many of the environmental organizations that have provided detailed comments on the partially approved measures and disapproved measures; all that will come out and it will be described in great detail at that September council meeting.

MR. ADLER: In other words, right now observer coverage is paid for by the government and not by the industry?

CHAIRMAN PIERCE: I believe that is correct. Have I got that right, Doug?

MR. GROUT: Yes.

CHAIRMAN PIERCE: Now the one element of this Amendment Number 5 that apparently was adopted was that whenever sea herring vessels, pair trawlers specifically, I guess, but maybe all vessel types; whenever they go into groundfish closed areas, there must be 100 percent observer coverage. I assume that would be 100 percent observer coverage that would be paid by the federal government. If observers are not available from the federal government, then the assumption would be that the vessels would not be allowed access into the closed areas. Have I got that right, Jeff?

MR. KAELIN: Unfortunately, you do.

CHAIRMAN PIERCE: Okay, I've got that right. The cost-sharing aspect of this particular amendment was very important. Again, we'll get more details from the Service when we meet in September. The Service has made it very clear in formal correspondence to the New England Fishery Management Council that this is a cross-cutting issue; mackerel, other fisheries. From what I've read in this correspondence, the NOAA Fisheries wants to get it right. All right, anything else? Any other business for today's meeting?

MR. ADLER: We can put off the discussion on what states are going to meet if they decide to do Areas 1B, 2 and 3 like 1A has done. Remember,

how do we work that one out; is that going to come later?

CHAIRMAN PIERCE: I would suggest that all states contact Bob, Toni, and Melissa and let them know of your interest in becoming part of a group that would deal with splitting of the quota within these different areas, Area 2, Area 3 and Area 1B. I think it would be useful for Melissa to provide to all states the matter in which it is now handled by Maine, New Hampshire and Massachusetts.

You will all understand the gory details as to how difficult this can be when a subset of the different states meet to determine how to slow down catch within specific areas. That is my suggestion, that the different states just contact ASMFC staff to make clear your intention.

EXECUTIVE DIRECTOR BEAL: I may suggest you go the other way. In other words, we'll have staff put together a white paper, some strawman document that looks at landings' patterns in these areas and where those fish are going to when they're landed and suggest states that seem logical.

I think the white paper, whatever, strawman should have some consideration for what Terry mentioned earlier, which is the budget implications and the workload implications on those states. As you know all too well, David, the three northernmost states meet fairly regularly to deal with Area 1A, days out and effort control. I think we can go from the staff level and put together something and bring that down to the states and see where your comfort level is with that. It just seems maybe a better approach and the piecemealing it through a lot of states contacting us.

CHAIRMAN PIERCE: Bob has offered up a suggested approach; I think it is a good one. I assume that all agree that that is the way to go. We will go that way. Thank you, Bob, for that suggestion. All right, I've been reminded that the New England Council's Herring Committee will be meeting on September 19 and the Advisory Panel will be meeting on the 18th.

All those who are interested in the council discussions and advisors input into herring discussions at our September council meeting and committee decisions that will be looked at and discussed at the council meeting in September, now you know what those dates are. Is there any further comment?

ADJOURNMENT

CHAIRMAN PIERCE: All right, I see no other business. With no objection, I will adjourn the meeting. Meeting adjourned.

(Whereupon, the meeting was adjourned at 10:55 o'clock a.m. August 6, 2013.)