

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

**Crowne Plaza - Old Town  
Alexandria, Virginia  
February 4, 2014**

**Board Approved  
May 12, 2014**

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5. **Move that the items in the previously passed motion be included in the Amendment** (Page 11). Motion by Douglas Grout; second by David Pierce. Motion carried (Page 12).
6. **Move that the Board approve the 2013 - 2015 Area 1B specifications: Season May 1 – December 31** (Page 12). Motion made by Pat Augustine and seconded by Douglas Grout. Motion carried (Page 12).
7. **Motion to adjourn** by Consent (Page 14).

## ATTENDANCE

### Board Members

Rep. Walter Kumiega, ME (LA)	Mark Gibson, RI, proxy for R. Ballou (AA)
Terry Stockwell, ME, proxy for P. Keliher (AA)	David Borden, RI, proxy for B. McElroy (GA)
Steve Train, ME (GA)	Rick Bellavance, RI, proxy for Sen. Sosnowski (LA)
Doug Grout, NH (AA)	Lance Stewart, CT (GA)
G. Ritchie White, NH (GA)	James Gilmore, NY (AA)
Rep. Sarah Peake,, MA (LA)	Pat Augustine, NY (GA)
David Pierce, MA, proxy for P. Diodati (AA)	Tom Baum, NJ, proxy for D. Chanda (AA)
Bill Adler, MA (GA)	Tom Fote, NJ (GA)

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

### Ex-Officio Members

Jeff Kaelin, Advisory Panel Chair	Michael Eastman, Law Enforcement Representative
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### Staff

Robert Beal	Kate Taylor
Toni Kerns	Melissa Yuen

### Guests

Kelly Denit, NMFS	Alexei Sharov, MD DNR
Kevin Chu, NMFS	Angela Giuliano, MD DNR
Raymond Kane, CHOIR	Joseph Gordon, PEW Trust
Michael Millard, USFWS	Aaron Kornbluth, PEW Trust
Wilson Laney, USFWS	Ken Hastings, Stripers Forever
Andrew Turner, NOAA	Harold Brown, ME
Emilie Franke, Chesapeake Research Cons.	

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, February 4, 2014, and was called to order at 8:00 o'clock a.m. by Chairman Terry Stockwell.

### **CALL TO ORDER**

**CHAIRMAN TERRY STOCKWELL:** Good morning, everyone. Welcome to Alexandria for our annual winter meeting. I will convene the Atlantic Herring Section.

### **APPROVAL OF AGENDA**

**CHAIRMAN STOCKWELL:** The first order of business is approval of the agenda. Are there any additions or changes to the agenda? Seeing none, consider agenda approved.

### **APPROVAL OF PROCEEDINGS**

**CHAIRMAN STOCKWELL:** Has anyone got any comments or edits to the proceedings from October of 2013? Seeing none, consider the proceedings approved.

### **PUBLIC COMMENT**

**CHAIRMAN STOCKWELL:** The next order of business is public comment on issues that are not on today's agenda. Is there anyone from the public who would wish to comment to the Section? Seeing none, as we move right along, we are going to discuss and consider changes to Management Area 1A.

### **DISCUSS AND CONSIDER CHANGES TO MANAGEMENT AREA 1A**

**CHAIRMAN STOCKWELL:** I actually brought this issue to the Section because from the number of folks that I've spoken to over this last year, the sentiment is basically things went pretty well in Area 1A last year; but there were several issues that industry has been discussing that I'm hoping we can get some Section discussion this morning and decide whether or not we want to initiate an addendum to address that. To tee this off, I'm going to turn to Steve Train.

**MR. STEPHEN R. TRAIN:** Mr. Chairman, I would make a motion to initiate another addendum to this based on the things you've just explained. If I can get a second, I can explain.

**CHAIRMAN STOCKWELL:** I think for the Section's benefit, the issues that Steve is about to make a motion on are the ones that we have – at least the Maine DMR has received the most number of comments on, and we thought it was appropriate to bring it to the Section today for discussion and consideration of an addenda. Steve, if you will make the motion and if we get a second, we can – there are four issues and we can go through them and take a pulse of how the Section feels.

**MR. TRAIN:** I'm trying to get the wording on this right. There are four issues and maybe you can help me word this. The last few years the spawning closures I don't think have been effective because the fish weren't spawning by the time we reached the backstop. To keep all the areas from closing at once would initiate a closure; so I think we need to change the time period requirement when we initiate those closures.

Unless I have a misinterpretation of it, we've been essentially closing when there wasn't spawned fish. I think it would be important to have a gear type declaration. Before you leave and when you're out there, we want to know what type of gear you're going to be using. We need to not roll the fixed gear set-aside over because sometimes the fish actually show up later. I'm really having trouble how to word this all into one motion.

The final note is that we want to make sure the boats aren't going back to sea with herring still in the old. You want to pump out ashore every time you come in. I would really love somebody who is better at scripting this to help me work this into one motion or should this be more than one motion?

Well, I'll try again. The purpose of this addendum will be to review the effectiveness of current spawning areas; require vessel owners to declare in advance their intended fishing gear

type for quota; remove the rollover provision for fixed gear set-aside; and require vessel fish holds to be empty before leaving on a trip.

CHAIRMAN STOCKWELL: So, Steve, you're making a motion to initiate Herring Addendum V?

MR. TRAIN: I thought it was V but I just heard somebody say VI.

CHAIRMAN STOCKWELL: We're both wrong; it is VII.

MR. TRAIN: I'm making a motion to initiate Herring Addendum VII.

CHAIRMAN STOCKWELL: Okay, is there a second to the motion? Seconded by Doug Grout. Is there Section discussion? Dr. Pierce.

DR. DAVID PIERCE: I'm waiting for the motion to be put on the screen, Mr. Chairman, since I need to hear it again.

CHAIRMAN STOCKWELL: It is going up on the screen right now.

DR. PIERCE: Okay, relative to the motion, review the efficacy of the current spawning areas – all right, I would appreciate a bit of clarification. When Steve began to comment on his specific concerns as to what happened last year, he mentioned that we closed when there wasn't spawned fish. I would appreciate some elaboration. The Section needs to understand what happened in 2014; what closures occurred when there weren't spawning fish. Do we have any information to clarify the nature of the problem?

CHAIRMAN STOCKWELL: I would like to turn the Chair of the Section over to the vice-chair, Ritchie White, and respond to Dr. Pierce's question.

(Whereupon, Vice-Chairman G. Ritchie White assumed the Chair of the Section.)

CHAIRMAN G. RITCHIE WHITE: Go ahead, Terry.

MR. STOCKWELL: Okay, to answer your question, this last fishing year in the Eastern Maine Spawning Area there were fish that were coming in that were not spawning. We had sufficient samples but we didn't have any ripe or running fish in order to trigger a spawning closure. There is some confusion on the part of at least DMR as to whether or not we're required to close at all. Our interpretation is that we need to close for a four-week time period at some point during the summer for each of the spawning areas.

We ended up closing the eastern area with no samples of ripe and running fish. If the purpose of this spawning area closure is to protect spawning fish, we weren't doing that. The second part of the issue is what we've gone through in the western Gulf of Maine, between the western spawning area closure and the Massachusetts/New Hampshire closure, there is a disparity between what the DMR samplers find in the Boon Island Area and what the Massachusetts samplers find in either the whiting closed area or Ipswich Bay.

It is my sense that the technical committee needs to either address the area spatially or we need to expand the length of the spawning area so that we're actually protecting all the spawning fish. At this point for the last two years or the last three years, we have gone back and forth with notification problems between the three states; and I don't believe we're protecting the spawning fish in that area. My request for the inclusion of this measure into an addendum would be to task the technical committee to analyze the efficacy of the spawning areas so that we do a better job of protecting the spawning fish.

DR. PIERCE: If I may, Mr. Chairman, that means if we initiate an addendum to deal with a specific issue today, part of the addendum would involve giving a charge to the technical committee to offer up some ideas as to how we can better go about protecting spawning fish, closing at the appropriate times, taking another look at the geography of the area and how spawning differs by area. We don't have any specific options yet to conclude. It is just the

idea with the technical committee coming to us with the specific elements of the addendum that we would then approve and then bring to public hearing. I assume that is the way you would like to proceed.

MR. STOCKWELL: That is correct. You remember several addendums ago we tasked the technical committee to look to reconfigure the area and they were unable to. They did talk about the potential for creating a fourth spawning zone; but at that point I believe we were at our May meeting and about to start the fishing season and nothing moved on.

The other issue that I would like to have resolved is the language that would give better clarity as to whether or not if there is an area that is not producing any spawning fish, whether there is a necessity of, for instance, the state of Maine to closing the eastern spawning area. Toni, you had your hand up.

MS. TONI KERNS: Mr. Chairman. I think that we need to think about the language here that is in the motion. As we spoke of earlier today, the vessel hold provision is something that is not currently in the adaptive management section for Atlantic herring; and so therefore we would have to do an amendment to make any changes for that as well as declaring into the fishing gear types for the quota periods.

Unless the states did that on their own, we have nothing specific to permits in the herring fishery as well, so that would also require an amendment. We would need to change the language in the motion to say initiate an amendment to do this. Then if it is the intention of the section to make changes to the current spawning areas, we may want to think about the language that is right there because all it is saying we're doing is reviewing the efficacy of the spawning areas but not making changes.

MR. STOCKWELL: I was specifically addressing Dr. Pierce's question. You have preempted discussion about Issue Number 4; by my intent with bringing this before the section was clearly to elicit discussion and see what the next steps are. I understood that Item 4 would

require an amendment, but I did not know that Issue 2 would as well.

CHAIRMAN WHITE: Are you going to continue to sit in your regular seat, Terry? Do you want me to continue?

MR. STOCKWELL: I don't want to cross the line too many times.

CHAIRMAN WHITE: It sounds like you're going to be discussing this quite a lot so I'll continue, if you'd like. I have Doug next.

MR. DOUGLAS E. GROUT: I supported this primarily because I saw a lot of issues here that I think we need to at least look at and decide whether we want to make some changes. I agree with Toni that maybe reviewing the efficacy of current spawning areas and consider might be changed to consider changing this to the current spawning areas or the conditions of that.

I agree that we need to potentially look at changes to the Massachusetts/New Hampshire spawning area because I've heard for years that often the small-mesh area beyond Ipswich Bay; I have been told many, many times that we're missing the spawning in our default time here and yet we're getting samples from Maine that are showing ripe and running, but those samples are up closer to Boon Island.

There might be a difference between what is going on inshore in southern Maine as opposed to what is going on off of Ipswich Bay. I also certainly would support looking at the potential requiring vessels owners declare in advance their fishing gear type and also looking at the potential of requiring them to empty their hold before leaving the dock. Now, we have dealt with this in some previous amendments on the council and decided to take them out for a variety of reasons, but that is something we'd have to look at to see if we can craft something that would also require this without putting some problems with the vessels.

CHAIRMAN WHITE: I would like to ask Toni or Melissa a clarification because of discussions earlier today; is it a fact that the closures are

time-sensitive or can they be implemented when the spawning takes place; and is there an end date to that? I guess what I'm trying to ask is Terry's problem that they encountered in Maine this year; could that be solved by just not implementing a closure until they get spawned fish?

MS. MELISSA YUEN: The spawning areas are closed when there is a certain threshold of fish are like ready to lay eggs and spawn. It is based on timing. The default dates; there is a certain time, by August 1<sup>st</sup>, that sampling has to start, and that is based on commercial fishing and the GSI analysis is done. If spawning fish have not been detected, then they would close a little later, until about 20 percent of the fish is spawning. It is flexible. It is built in; and as you can on the screen, those are the default dates for each area. Sometimes they close later based on fish that have been detected.

CHAIRMAN WHITE: Terry, do you want to respond to that?

MR. STOCKWELL: My interpretation is that we begin sampling on the 1<sup>st</sup> of August. This year when we had no ripe and running fish, we closed on the 15<sup>th</sup>. When we closed, we still closed with no spawning fish. I'm a little bit unclear as to whether or not we would need to do that again in the following year.

CHAIRMAN WHITE: Okay, my question then again to staff is would the closure under our plan allow for delaying that so that it would not have closed until the tests showed spawning?

MS. KERNS: Currently the plan states that you have to close on August 15<sup>th</sup> if you haven't detected it currently for eastern Maine and then September 1<sup>st</sup> to September 21<sup>st</sup>. So, no, the flexibility is not there for that.

CHAIRMAN WHITE: I'm going to allow Doug to speak to that before Sarah.

MR. GROUT: Well, I think this is where the confusion came; because as I read the plan here under Section 2.2.3, it says, "If sufficient samples are not available, closures will begin on

the default date." It goes on to say, "Closures in a given area will begin seven days after the determination that females are in the ICNAF Gonadal Stages 3 through 5."

The way I read this, it specifically says that the only reason that the default dates would be implemented is if there isn't sufficient samples available; so if you didn't sample it, you'd do it on the default date; and if you did sample and had sufficient samples, you wouldn't have to close until you actually got spawning herring. That doesn't address the question that I think Terry got was that he felt that regardless of what the sample said, that some time we had to close for four weeks was his interpretation.

CHAIRMAN WHITE: Toni, do you want to respond to that?

MS. KERNS: I guess, Doug, my question to you would be in the very last line. The language is up on the screen right here; and it says that Area 1A, inshore spawning closures will begin on the following dates unless samples show earlier spawning than the default date or continuing two weeks after the four-week closure. Staff had interpreted that as a closure will occur if it hasn't already occurred earlier. If the section's interpretation is different, then we're open.

MR. GROUT: What we're looking at is two different things. This is the amendment, and I'm looking at the addendum which clarified the spawning closures. The language that I'm looking at is in the addendum that supposedly clarified things. The reason we went through that whole addendum was to try and clarify this; so I was looking that this would preclude what was originally in Amendment 2, because we were trying to clarify the spawning areas.

CHAIRMAN WHITE: While Toni looks that up; Sarah.

REPRESENTATIVE SARAH K. PEAKE: As we're talking about the efficacy of spawning areas and closures and sampling, I can't let the moment pass without bringing up again the issue of – everybody is smiling – the lack of sampling



in the Georges Bank/Nantucket Shoals Area. I have to admit I can't remember what our next-step proposal was going to be.

I know that there is an issue with doing sampling on Georges Bank because the fish are frozen and it is harder to bring them back to determine when they are ripe and ready to spawn. If we could ask staff to review that issue, I think clearly the section here, we are all dedicated to developing best practices, for lack of a better word, and to understand where spawning occurs. Again, I just want to make sure that we keep on our radar screen the Nantucket Shoals/Georges Bank area.

CHAIRMAN WHITE: Sarah, I think that would be a good question once we've dispensed with the motion on the floor. If you want to bring that up to staff, I think that would be appropriate. I have Dave next.

DR. PIERCE: Regarding the motion and spawning area efficacy, I'm having a difficult time understanding the nature of the problem. It seems to me that perhaps what happened in 2014 – and I turn to Terry for clarification – perhaps what happened in 2013 was that the fishery in eastern Maine specifically was focused on juvenile fish.

Therefore, no samples could be obtained to determine if the spawning closure should occur or should not occur because the industry was targeting immature fish. To make a change in the spawning closure in order to facilitate the continued targeting of juvenile fish, to me that is a problem.

I guess I'm seeking a clarification of what exactly is the purpose of this particular part of the motion and to what extent was sampling done in 2013 of adult fish to see if they were spawning. Were no samples possible because the fishery was targeting juvenile fish or did the sampling occur and the fish were not spawning even though they were mature? Again, I'm trying to understand the nature of the problem that we would address with particular action.

CHAIRMAN WHITE: Terry, would you like to respond?

MR. STOCKWELL: Yes. The department staff sampled every trip that came in from eastern Maine during the first two weeks of August, and it was a combination of juvenile and non-mature adult fish. There were no spawning fish. The intent of where I'm trying to go is to protect spawning fish.

If the intent of the section is not to fish on juvenile fish, let's not do it under the guise of protecting spawning fish. That is a different measure. I want to protect the spawning fish, so my thought is more comprehensive. If we have spawning fish no matter where they are, let's protect them. If the intent of the section is to protect juvenile fish, let's do it under a different action under spawning areas.

CHAIRMAN WHITE: I have Jeff next.

MR. JEFF KAELIN: Of course, the AP will have a chance to look at this at some point down the road; but I just wanted to put on the table; those of you who have been around the table a long time you remember that we used to have a spawning fish tolerance in Maine that worked for decades to actually identify when the fish were spawning. That worked very, very well. You lose a little bit of spawning fish, but you target the activity of when the fish are actually taking place.

From a biological perspective, understanding the assessment to the extent that I do personally and not speaking for the AP, I don't think we have a biological problem in any area, whether it is catch at age or spawning potential. I just wanted to put on the table that in this addendum we might want to think about putting the tolerance back in because that targets spawned fish. That is why it was used for so many years. I'll wait – I have a question about the gear type declaration – until we get off this subject unless it is pertinent to ask a question about that issue at this time, Mr. Vice-Chairman.

CHAIRMAN WHITE: Why don't you go ahead with that, Jeff, because staff is still working on getting an answer for us.

MR. KAELIN: I'm trying to understand what the problem is there. During this time of year it is all purse seine or a fixed gear fishery. With the VTRs we have to call in if we're going herring fishing, generally, and the VTR will say what the gear type that you're using is. Does someone have the ability to explain what the gear type declaration issue is really all about because I don't think I understand it? Thank you.

CHAIRMAN WHITE: Terry, do you want to respond to that?

MR. STOCKWELL: The intent was following up on industry comments for a combination of – it would be a combination of industry comments concerning the ability to make business decisions and the technical committee's ability to project days. It makes a huge difference whether or not we have half a dozen purse seiners or ten purse seiners fishing in the area. We made out very well last year with no days out. If we were to significantly increase the number of vessels that were to fish in Quota Period 2, we would be back into a much more limited program; so it is just trying to look at forward projections.

MR. KAELIN: So it is really not a gear type declaration as much as effort declaration that you're looking at, I guess. People would say on a week-to-week basis we expected to do X, Y and Z; is that what you're getting at, Terry?

MR. STOCKWELL: No; it would be do you intend to fish purse seine gear in Area 1A or do you intend to fish midwater trawl gear in Area 3?

MR. KAELIN: On a weekly basis or something like that?

MR. STOCKWELL: I don't have an answer to that; that would be at the discretion of the section.

MS. KERNS: The addendum sort of tells you two different things. In Section 2.2.3, which Doug read from, it is describing the sampling protocol. It does start with sentences that say closures in a given area will begin based on the spawning condition of the Atlantic herring as determined from the commercial's catch samples.

But if you go back to the appendix on Page 10, which includes all of the spawning regulations that we combined from the amendments and addendums that we've done since the since the start of Amendment 2, it still has that language that Melissa had listed up before, identifying the spawning closures and default dates. The management plan is telling you two different directions in the document. It is saying that your spawning closures are based on your commercial sampling, but it still does have default dates listed.

CHAIRMAN WHITE: I guess I have a question for clarification. Since that is the listing of all the actions that have been taken, wouldn't the last addendum, which was the most recent, override the previous wording?

MS. KERNS: It would override the previous wording if that is the intention of the section from that portion of the addendum sampling protocol to also remove the start dates; but the amendment section on spawning closures and default dates doesn't discuss all of the sampling protocols; so the two different sections get at different ideas.

CHAIRMAN WHITE: A further question for staff; would there be a way of clarifying this short of an addendum? Would the board be able to vote a clarification of the wording of what their intent was when they did this?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Ritchie, I think the first step for that would have to be going back and looking at the minutes; you know, what was really the intent of the section? The document as it is written right now is sort of internally inconsistent. You have got language that says the closures start based on the sampling; and then you've got other language

that says kind of regardless of the sampling, the default dates are in effect. I think the section may be able to clarify that or take action to clarify the language, but you'd probably have to go back and sort of verify in the minutes that was the intent of the section.

CHAIRMAN WHITE: So the cleaner way to fix this issue is an addendum so then there is no doubt as to what our intent is?

EXECUTIVE DIRECTOR BEAL: Yes, obviously, the record would be the most clear, if you can say that, that if there is a new document that clarifies exactly the way the spawning closures relate to the sampling and the default dates may need to be removed or not. I think what the section needs to be clarified is, is the four-week closure at some time during late summer or early fall required in all areas regardless of – you know, hypothetically could there be sampling throughout the August/September timeframe; and there are no ripe fish identified, should there be a spawning closure at all. I don't know; I think that is a question for the technical folks to bring back to the section. A new addendum, Addendum VII or whatever it may be would be the cleanest way and the best record of the intent of the section.

CHAIRMAN WHITE: Terry, did you have further comment?

MR. STOCKWELL: No, Mr. Vice-Chair, I was going to make a motion to substitute. I make a motion to substitute that the purpose of the addendum will be to review the efficacy and consider changes to the current areas; and implicit in that would be discussion from the technical committee on the timing in the eastern Maine spawning areas and to remove rollover provision for fixed gear quota set-aside.

CHAIRMAN WHITE: Would the maker of the original motion accept that as friendly because that is not much of a change?

MR. TRAIN: Yes, I would; it was essentially the intention of the original and that we find out some of the things we can't actually do, so I have no problem.

CHAIRMAN WHITE: Is the seconder with that?

MR. GROUT: I guess so.

CHAIRMAN WHITE: I take that as a yes. Are there any comments on the new motion that has been friendly amended?

MR. KAELIN: I just have another question about the fixed gear rollover issue. I guess I'm not really clear what happened there. Apparently the fish was rolled over and then the guys wanted it in the fixed gear. I'm not sure if that's the case. If it is not used, I think the industry would probably like to make sure that got rolled into the next year; that it wouldn't be left on the table. It is not an overfished stock and we're using a 10 percent rollover on the federal specifications. I just wondered about that problem, too.

MR. STOCKWELL: Before I answer Jeff's question, Mr. Vice-Chair, do you think we should consider and add Doug's suggestion to consider changes to the current spawning areas as part of this friendly motion so that we don't just review the efficacy? It would make it an action item.

CHAIRMAN WHITE: Yes; I think that is appropriate given the discussion today if there is no objection. While staff is getting that up, Bob, I think you wanted to comment.

EXECUTIVE DIRECTOR BEAL: I just wanted to clarify. The two items that we identified or were identified earlier as needing an amendment; those are being put on sort of the back burner for now and the addendum is only going to deal with the efficacy of the spawning areas and potential closures in the fixed gear rollover; is that correct?

MR. STOCKWELL: I'm going to answer Jeff's question when we dispense with this motion. I'm going to make a motion to initiate an amendment.

MR. GROUT: First a comment; I think it is kind of ironic that the purpose of Addendum V

was to seek to clarify spawning regulations to achieve consistency in their application. It seems like we didn't succeed very well in that. The other question I had – and maybe, Terry, you can answer this – is the fixed gear rollover; is that in the federal plan, too? If so, would we also have to change the federal plan?

MR. STOCKWELL: I don't know the answer to that question; but to answer Jeff's question, the intent of the fixed gear rollover is at the 1<sup>st</sup> of November the fixed gear set-aside gets rolled into the overall quota. Fish come up mid-coast Maine through the month of November after the fishery is closed; and there is no access to the small-time guys.

The last several years in particular they've seen fish go by and have no access to it. Whether or not it is used as a conservation measure for unused fish, it is only 200 or less than 200 tons; or whether or not it gets rolled into the following year's quota, I would like to take that out to public comment.

CHAIRMAN WHITE: Are there any other comments before we vote on this motion? Dave.

DR. PIERCE: Any steps that we can take to improve how we're dealing with spawning fish and protecting spawning fish; being on time, closing at the appropriate time, well, those are the proper steps to take. Terry has raised some very valid concerns expressed to him by fishermen in the state of Maine.

I haven't heard any similar concerns expressed by fishermen in Massachusetts; but that is understandable since we're talking about eastern Maine primarily. So, have the technical committee review the efficacy, why not, and then if that results in some recommendations from the committee for changes to the spawning areas, timing and boundaries, then all well and good; so I will support the motion since the intent is very consistent with what the section has tried to do for many years now.

CHAIRMAN WHITE: Are there any comments from the audience? Yes.

MR. PATRICK PAQUETTE: Patrick Paquette, recreational fishing advocate from Massachusetts and a member of your Atlantic Herring Advisory Panel. Just a comment on the way that the current motion is written; if you're going to have – and I appreciate the intention here to be more adaptive and protect fish that are actually spawning.

I just wanted to point out that the way it is written is going to limit the technical committee and your consideration to the efficacy of current spawning. I think the technical committee and you should be open to considering whatever – if you're going to really look at how efficient the current spawning closures are looking at, you should allow the technical committee to give you their real opinion or a complete opinion on protecting spawning fish.

Yes, their advice could back and say that there is a larger amendment level action as opposed to an addendum, but why sort of box yourself into just analyzing current spawning areas? I think Representative Peake absolutely is echoing fishermen's concerns from the southern end of the range; but it seems to me limiting the scope of what you're at least looking and considering. It isn't as adaptive as it could be and it doesn't match the intent of what is being discussed around the table. If we're going to take a look at it, let's take a look at protecting spawning fish completely. Thank you.

CHAIRMAN WHITE: Thank you, Patrick. The motion that is on the board now does consider changes to the spawning areas, so I think that would address your concerns. I know we got to this motion probably a little less than a formal process, but that –

MR. PAQUETTE: Okay, so you're not – by saying current spawning, you're not limiting that geographically to just what is in the regulation now?

CHAIRMAN WHITE : Well, it says consider changes to the spawning areas.

MR. PAQUETTE: I'm anticipating the debate is how I've witnessed it for years here; so that is what inspired the question.

CHAIRMAN WHITE: Are there any other comments? Terry.

MR. STOCKWELL: Just to respond to Patrick's comment and for the section's information, my intent of the motion was specific to Area 1A. I'm not opposed to looking at additional spawning areas. I think it is a much bigger lift than the technical committee just looking to improve what we have in Area 1A.

CHAIRMAN WHITE: So as the maker of the motion; is your motion for 1A?

MR. TRAIN: Yes.

CHAIRMAN WHITE: Okay, if staff could add that in; and then if there are no other questions, I would like to ask the maker of the motion to read the motion. Steve, when you're ready, if that is the motion you'd like to bring forward.

MR. TRAIN: **I move to initiate Atlantic Herring Draft Addendum VII with the purpose to review the efficacy of spawning areas in Area 1A, consider changes to the spawning areas in Area 1A, and require vessel in owners to declare in advance of their intended fishing gear type for the quota period; yes, Period 2.**

CHAIRMAN WHITE: Are you sure of Period 2? Terry, do you want to speak to clarification?

MR. STOCKWELL: I must have missed something, but I thought our discussion was based on rolling fixed gear set-aside back in the overall quota. The motion on the board says something very different.

CHAIRMAN WHITE: It might be helpful if the maker of the motion could provide staff with a written motion – that might be easier – if that is possible. This is the correct motion that is up on the board now?

EXECUTIVE DIRECTOR BEAL: I believe so.

CHAIRMAN WHITE: Steve, do you want to read the motion?

MR. TRAIN: Okay, I'll read that if you'd like. I feel like the newscaster that had the wrong thing in front of him. **Move to initiate Atlantic Herring Draft Addendum VII with the purpose to review the efficacy of spawning areas in Area 1A, consider changes to the spawning areas in Area 1A, and remove the rollover provision for the fixed gear quota set-aside.**

CHAIRMAN WHITE: Okay, a motion by Mr. Train; seconded by Mr. Grout. There is probably no need to caucus; is there? All those in favor; opposed; null votes; abstentions. **The motion carries unanimously.** Terry.

MR. STOCKWELL: Mr. Vice-Chair, because of advice received by staff, **I move to initiate an amendment that will require vessel owners to declare in advance their intended fishing gear type for quota periods and require fish holds to be empty before leaving the dock on a fishing trip.**

CHAIRMAN WHITE: Is there a second; Mr. Grout. A question for the maker of the motion; it would add a layer of complexity and additional cost to start an addendum and then also start an amendment. Is there any reason why both of these motions couldn't both be in the form of an amendment?

MR. STOCKWELL: It makes good sense to me. Untangle us, Bob.

EXECUTIVE DIRECTOR BEAL: We should have thought of this five minutes ago. I think if the board wants to go back and amend or rescind its previous action – well, actually, since we're within the same meeting and somebody on the prevailing side wants to go back and revisit the previous motion and change it to include it in this amendment, I think a simple motion by the board can make that happen. The easiest thing to do may be to consider this and make sure the section actually wants to go forward with an amendment on these two issues; and then if the answer to that question is yes, then we can go

back and revisit the previous motion to consider rolling those items into this amendment.

CHAIRMAN WHITE: Okay, are there comments on this motion? Jeff.

MR. KAELIN: Mr. Chairman, I'm just curious why this would be limited to Period 2 if the issue is whether or not seiners are going to go to Area 3 or not in a given week. Isn't that also an issue that is pertinent to the first period? In other words, if it is a problem with trying to estimate how much effort is in the Gulf of Maine, why wouldn't it be an issue in the first period and only an issue in the second period?

MR. STOCKWELL: To make it a little bit easier; why don't we just delete "2" and put an "s" behind period?

CHAIRMAN WHITE: Are there any other comments on the motion? Dave.

DR. PIERCE: The first part of the motion, I'm unclear as to its intent. "Vessel owner declares in advance the intended fishing gear"; for what purpose? I'm trying to get to the end result here. Is this to somehow set the stage for preventing a purse seiner from becoming a midwater trawler or vice-versa? I'm trying to get a feel for where this is going; what is the outcome the maker of the motion is seeking?

CHAIRMAN WHITE: I think the discussion that Terry had earlier was in trying to determine effort in 1A, it would be an advantage if we knew how many purse seiners were going to be fishing as opposed to boats changing quickly; so are there six purse seiners or twelve seiners. That would help the section determine how to slow down or speed up the harvest. I think that is what Terry was discussing.

DR. PIERCE: Okay, thank you for that clarification; that explains it.

MR. WILLIAM A. ADLER: Mr. Vice-Chair, in advance, one day in advance, two weeks; because what you just explained, the section would be looking at – I understand how many are expected and whether it is going to be, but

does this mean by a certain time or is the section going to say, well, we're going to make a decision on this; it is going to be this way; and then that goes through and then before they go in, they declare and it changes the whole thing. It is a timing thing here, okay?

CHAIRMAN WHITE: Bill, I think that the amendment process will have a scoping document, so I think there could be options to out to the public and get comments back as to what would be appropriate. I think that could be fleshed out during the process. Are there any other comments or questions? Jeff.

MR. KAELIN: Mr. Vice-Chairman, what I think I heard you say is this amendment will be kind of in the posture of a scoping document so that there could potentially be other issues added to it that might occur in the public hearing and the scoping process; is that what you just said? I know there is going to be at least one that people will want to put back up on the table; and that is probably putting trawls in the fishery in the summertime. I'm not saying that is my position, but I think people are going to wonder whether or not other issues could be added to this addendum. Thank you.

CHAIRMAN WHITE: Bob, do you want to comment to that?

EXECUTIVE DIRECTOR BEAL: The commission has done it both ways. In the past they have done amendments that they've at this stage have actually restricted to a finite list of items. The commission has also taken out documents that had an open-ended question at the end that said are there other issues that you'd like to see included in an amendment for sea herring or whatever the species is. It is really up to this group if they want to do that.

Like I said, there have been additional issues added to amendments following the round of scoping hearings or public information documents. It is up to this group if you want to limit it to these four items or you want to see what the public has to say in a series of scoping hearings and then decide what the final list is.

MR. STOCKWELL: I would be very strongly opposed to increasing the scope of this. Consideration of adding or removing trawl gear from Area 1A is a much bigger issue; and I think it is a discussion that should had on its own and not bog down these other four issues.

CHAIRMAN WHITE: I agree, but in answering Bill's question, I think the items that are up here, there is the ability to fine tune the details of the different issues. Are there any other comments or questions? Seeing none; do you need to caucus? **Move to initiate an amendment that will require vessel owners to declare in advance their intended fishing gear type for quota periods and require vessel fish holds to be empty before leaving the dock on a fishing trip. Motion by Mr. Stockwell; seconded by Mr. Grout.** All those in favor, right hand; those opposed; abstentions; null votes. It passes unanimously. Okay, next motion, Mr. Grout.

MR. GROUT: Being on the prevailing side, I move to rescind our previous motion concerning Addendum VII and to roll those issues into the new amendment for the Atlantic Herring Fishery. How do you want me to word this? Okay, **I would move that the items in the previously passed addendum be included in the amendment that we just approved for initiation.**

CHAIRMAN WHITE: Is there a second; David Pierce. Bill Adler.

MR. ADLER: My only question – I have no problem with this other than those previous – the thing in the previous addendum there that we passed; how pressing – because an amendment takes longer than an addendum; how pressing is having to adjust the spawning area issue and removing the rollover part. If it goes into an amendment; will it take longer; and are those pressing that need to be fixed fast or faster than what was in the proposed amendment?

CHAIRMAN WHITE: Before I ask Terry to respond, I would like to ask Bob because there is not clarity with the plan, would the section be able to close for spawning closures under the

more conservative interpretation of the present rules?

EXECUTIVE DIRECTOR BEAL: That is a tricky one. I think if the second feels comfortable that they are moving through the amendment process and there is some ambiguity or uncertainty in the Addendum V language, they can allow the states to manage their spawning closures a little bit differently for this summer.

I think the reality is regardless of an amendment or an addendum, getting those final rules in place for August 1<sup>st</sup> would be difficult regardless of the path we take. If the section chose to do an addendum, it would bring a draft back at our May meeting and then hearings would occur after the May meeting and final decisions wouldn't be until our August meeting, which would be after the beginning of the sampling that is already going on in Maine.

I think something is going to need to be decided by this group about how this late summer or early fall's spawning closures are handled sort of outside the amendment/addendum process. The process that is being initiated here will probably affect the 2015 and later fishing seasons. Does that help you out, Ritchie?

CHAIRMAN WHITE: Thank you. Terry, before I go to you – okay, that has already been fixed. We had an addendum that we passed earlier and we just passed a motion; we didn't pass an addendum; so that has been fixed in the present motion. Terry.

MR. STOCKWELL: I feel comfortable with the approach that Bob just laid out. I do think, though, that our May meeting, when we review the draft amendment, that if the section feels something significantly different, then we can deal with it then. We will have had our days-out meeting by then and we will have a better forecast for the summer. If there is not an objection, we could continue this discussion again in May.

MR. ADLER: Mr. Vice-Chair, what about the rollover for the fixed gear; is that fixable without an amendment?

MR. STOCKWELL: No. If this amendment was to be passed by the section at our summer meeting; it would be in place for the 2014 fishing year.

CHAIRMAN WHITE: Are there any other comments? Is there a need for a caucus? **Seeing none, the motion is move that the items in the previously passed motion be included in the amendment. Motion by Mr. Grout; seconded by Dr. Pierce.** Right hands for everyone in favor; okay, like for opposed; null, abstentions. Passes unanimously. I think at this point I can turn the chair back.

(Whereupon, Mr. Stockwell assumed the Chair of the Section Meeting.)

CHAIRMAN STOCKWELL: Thank you very much, Mr. Vice-Chair. Melissa, if you're ready to move on to the Area 1B specifications.

#### AREA 1B SPECIFICATIONS

MS. YUEN: For the 2013 to 2015 specifications for Area 1B, in Framework 2 to the Federal Atlantic Herring FMP and also ours, the sub-ACL for Area 1B is 4,600 metric tons. Framework 2 implemented a season splitting with a hundred percent of the sub-ACL available from May 1<sup>st</sup> through December 31<sup>st</sup>. To have our interstate plan complement the federal plan, we should also seasonally split Area 1B. That is for the section's consideration. Thank you.

CHAIRMAN STOCKWELL: Are there questions for Melissa? Is there a motion? Patrick.

MR. PATRICK AUGUSTINE: I move that the board approve the 2013-2015 specifications for Area 1B as stated in Framework 2 to the Atlantic Herring FMP; sub-ACL equals 4,600 metric tons; and 100 percent of the sub-ACL is available for harvest during – I think you said May 1<sup>st</sup> through December 31<sup>st</sup> of 2014.

CHAIRMAN STOCKWELL: Seconded by Doug Grout. Melissa.

MS. YUEN: The 4,600 metric tons is already approved; so the motion will only need to have the seasonal splitting with the hundred percent from May 1<sup>st</sup> through December 31<sup>st</sup>.

MR. AUGUSTINE: Thank you for that clarification; could we change it.

CHAIRMAN STOCKWELL: So amended. Is there any section discussion? Bill.

MR. ADLER: Are we basically saying – a couple of things here – are we basically saying there is no fishing for herring until May in 1B? We know there is none in 1A. Is that, first of all, what we're saying is no boats can go out and catch herring in 1B before May. Secondly, are we doing this because the federal people did it and we have to?

CHAIRMAN STOCKWELL: Doug, you had your hand up?

MR. GROUT: Yes, just to say, first of all, I seconded this for the purpose of discussion. My question sort of relates to what Bill was talking about. First of all, the federal plan already has the specification in. Also, I am wondering if we really need to do this and whether we're going to be required to put any rules in because this is all federal waters in 1B. That is my only question behind it.

MS. YUEN: In Addendum VI we put into our specifications' process that the section can set specifications for all four areas; so it is in place but it is not required. This is just up for your consideration.

CHAIRMAN STOCKWELL: Is there any further discussion? Okay, is there a need to caucus? **Okay, move that the board approve the 2013 through 2015 Area 1B specifications; season May 1 through December 31. Motion by Mr. Augustine and seconded by Mr. Grout.** Is there any opposition to the motion on the board? **Seeing none; it carries.** Other business; Sarah.



**OTHER BUSINESS**

REPRESENTATIVE PEAKE: Mr. Chairman, if we could get an update on where we are with Georges Bank/Nantucket Shoals; I think we were going to send a letter to the New England Fishery Management Council on that, as I recall.

MS. KERNS: What we had done was the technical committee had come back to the section and telling them what we could do for a program for sampling. We put together a budget which we would require and brought that back to the section. I believe it was a total budget with all of the sampling programs of about 150K. I believe that is where we left. I am turning to Melissa to make sure.

MS. YUEN: That is correct.

REPRESENTATIVE PEAKE: So are we on hold until we find \$150,000; is that the bottom line?

MS. KERNS: We have the funds to cover – not the commission, but funds have been put together to cover the sampling in the Maine/New Hampshire area, for Area 1A, but we haven't found funds for the Nantucket Shoals.

MS. YUEN: Part of the technical committee's report back was for more guidance from the section on the objectives for the study and also for additional funding opportunities. As Toni says, there is some funding for state sampling currently; although a lot of states have reported that it comes from IJF funds, which have been reduced in recent years.

Additional staff would need to be hired for spawning in offshore areas and also a new sampling program to be designed. Having samples from the federal waters to state waters requires fresh samples and not frozen because it compromises the readings, so a new design would be necessary. Funds and staff would be needed for that.

REPRESENTATIVE PEAKE: If I may respond, I think the purpose of it is we just spent close to an hour this morning trying to get at the efficacy of our management based on spawning

stock. Some of the fishermen in my region believe that this is a spawning area and yet we're doing nothing to determine what the efficacy is and when there should or shouldn't be closures.

As to finding the money, I guess I would question if I were to make a motion to initiate an addendum; would that kind of light a fire under us to find a funding source? On another level, I kind of wish we had known about this yesterday when I was meeting with both Congresswoman Clark's fisheries person as well as Congressman Keating's and went up there and glibly said, "Oh, we're looking for level funding." Maybe I could have made the case for \$150,000 for this project.

DR. PIERCE: We all know that Nantucket Shoals is an important spawning area in Area 3, Nantucket Shoals, and the prevailing opinion. Scientific opinion is that the reason why the Georges Bank resource came back is that successful spawning on Nantucket Shoals fed the Georges Bank Area and it recovered.

The Nantucket Shoals Area is responsible for the resurgence of the Georges Bank Sea Herring Resource. That is the prevailing scientific opinion. I'll only make the point that notwithstanding the very important and legitimate points raised by Representative Peake, I'd be very surprised if we actually have a sea herring fishery in Area 3 and the Nantucket Shoals Area this coming fall when sea herring is spawning in the light of the actions that the council has taken relative to the Georges Bank Haddock Catch Cap and the river herring catch caps.

Those caps are likely going to be restrictive and it is likely that they will be triggered despite the efforts of the industry to move along and to avoid bycatch; their best efforts to avoid bycatch. It is kind of a wait-and-see situation. I may be wrong; but as it stands right now, as I said, I will be very surprised if there is any fishing in Area 3 this coming fall, which would mean that the vessels will be likely shifting their fishing location to the Gulf of Maine Area.

MR. KAELIN: Mr. Chairman, my question is to Melissa. Is anybody from the science center working with the technical committee on this Nantucket Shoals Spawning Efficacy Project?

MS. YUEN: Currently not that I know of.

MR. KAELIN: Well, it would be my very strong recommendation that you cross-fertilize this science with what is going on at the science center. Thank you.

CHAIRMAN STOCKWELL: The letter that went from the section to the council requested the collaboration with the science center. Toni.

MS. KERNS: Sarah, if we did an addendum, you could do an addendum to require sampling in Area 3; but the vast majority of Area 3 is in federal waters, so that would be us just making a recommendation to NOAA Fisheries to sample federal waters. It is just like in the Lobster Plan, we make recommendations so NOAA, but we can't make a requirement or be a hundred percent sure that it would go through and happen. For funding; we can try to help find funding, but that also is no promises as well.

REPRESENTATIVE PEAKE: Not to beat a dead horse over this; can I get some clarification? I'm not familiar with what the science center is that Mr. Kaelin referred to.

CHAIRMAN STOCKWELL: Northeast Fisheries Science Center in Woods Hole.

REPRESENTATIVE PEAKE: Thank you for that recommendation, Mr. Kaelin. If we could include that in our letter to the New England Fishery Management Council, I would appreciate that. I guess it looks like this year I owe a debt of gratitude to haddock since it will achieve a result of closure and buys us some more time to figure out how to move forward with this.

I would ask that we do send that letter to the New England Fishery Management Council to get some response from them and perhaps at the next meeting an appropriate motion would be a

letter or an addendum encouraging NOAA to do this research.

MR. DAVID V.D. BORDEN: I have a different issue, Mr. Chairman. I want to go back to a motion for a second.

CHAIRMAN STOCKWELL: Are there any other comments on this issue? David.

MR. BORDEN: This will be quick. I just wanted to follow up on Bill Adler's point on the motion. Somebody correct this if it is the wrong interpretation. That motion that we passed basically closes the directed fishery; and during the period that the directed fishery is not closed, in other words in the spring, any of the boats can land up to 2,000 pounds. That's a bycatch limit; is that correct? I see people nodding their head; thank you. That answers your question, Bill.

CHAIRMAN STOCKWELL: Is there any other business to come before the herring section?

MS. KERNS: Just as a clarification; this letter is to go to the Policy Board for approval. We will have to do that, Mr. Chairman, at the Policy Board.

CHAIRMAN STOCKWELL: My recollection is we made that recommendation at St. Simons; so didn't the Policy Board follow up; wasn't that a Policy Board action item? Let's check it.

MS. KERNS: I'll double check it.

#### ADJOURNMENT

CHAIRMAN STOCKWELL: Is there any further business? Seeing none; this meeting is adjourned.

(Whereupon, the meeting was adjourned at 9:15 o'clock a.m., February 4, 2014.)