

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

**The Westin Crystal City  
Arlington, Virginia  
February 5, 2019**

**Approved April 30, 2019**

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1. **Move to approve agenda** by Consent (Page 1).
2. **Move to approve proceedings of October, 2018** by Consent (Page 1).
3. **Move to approve Atlantic Herring Draft Addendum II for public comment** (Page 4). Motion by Doug Grout; second by Ray Kane. Motion carried (Page 4).

**Postponed Motion from October 2018:**

**Move to initiate an Addendum which considers providing the Atlantic Herring Board greater flexibility to set annual quota period specifications for the Area 1A fishery. This issue can be included in the addendum initiated regarding the Gulf of Maine herring spawning protections, or it can be a separate document. Task the PDT to expand the quota period options to increase flexibility when distributing harvest during the months of July through September. However, in years of higher sub-ACLs, choose options that would allow for expansion of harvest to meet the needs of the market**

4. **Move to table indefinitely** (Page 8). Motion by Ritchie White; second by Raymond Kane. Motion carried (Page 8).
5. **Move to postpone final action on Atlantic herring specifications until Policy Board on Thursday if NOAA Fisheries provides the final rule** (Page 8). Motion by Doug Grout; second by Steve Train. Motion carried (Page 10).
6. **Motion to adjourn** by Consent (Page 13).

**ATTENDANCE**

**Board Members**

Pat Keliher, ME (AA)	Justin Davis, CT (AA)
Steve Train, ME (GA)	Bill Hyatt, CT (GA)
Doug Grout, NH (AA)	Sen. Craig Miner, CT (LA)
Cheri Patterson, NH, Administrative proxy	Emerson Hasbrouck, NY (GA)
G. Ritchie White, NH (GA)	Jim Gilmore, NY (AA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Maureen Davidson, NY, Administrative proxy (AA)
Rep. Sarah Peake, MA (LA)	Russ Allen, NJ, proxy for T. Fote (GA)
David Pierce, MA (AA)	Joe Cimino, NJ, proxy for L. Herrighty (AA)
Raymond Kane, MA (GA)	Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)
Jason McNamee, RI (AA)	Terry Stockwell, proxy for T. Nies, NEFMC
Bob Ballou, RI, Administrative proxy	Allison Murphy, NMFS
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	

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

**Ex-Officio Members**

Jeff Kaelin, Advisory Panel Chair	Renee Zobel, Technical Committee Representative
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**Staff**

Robert Beal	Megan Ware
Toni Kerns	Jessica Kuesel

**Guests**

Rodney Avila, Orsted US	Dan McKiernan, MA DMF
Chris Batsavage, NC DMF	Derek Orner, NMFS
Peter Burns, NMFS	Kathleen Reardon, ME DMR
Joseph Gordon, PEW Trusts	Melissa Smith, ME DMR
Zach Greenberg, PEW Trusts	Mike Thalhauser, MCCF
Arnold Leo, E. Hampton, NY	Kevin Wark, Orsted, GSSA
Patrice McCarron, MLA	Danny White, Maine Marine Police

The Atlantic Herring Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, February 5, 2018, and was called to order at 9:00 o'clock a.m. by Chairman Patrick C. Keliher.

#### **CALL TO ORDER**

CHAIRMAN PATRICK C. KELIHER: I would like to welcome everybody to this morning's Atlantic Herring Management Board. It is a beautiful day; the sun is out. It's going to be almost 70. It is a great day for a parade; and here we are, exactly. Let's wrap this up so we can get back to Boston and join the parade.

#### **APPROVAL OF AGENDA**

CHAIRMAN KELIHER: I want to thank everybody for being here this morning. The first order of business is, actually I don't believe we have anybody signed up for public comment. Is there anybody that planned on speaking on any items that are not on the agenda? Seeing none; let's go right into Item Number 2, which is Board Consent, Approval of the Agenda. Is everybody all set on the agenda; any additions, any new business?

#### **APPROVAL OF PROCEEDINGS**

CHAIRMAN KELIHER: Seeing none; Approval of the Proceedings from the October, 2018 meeting. Has everybody had an opportunity to look at the minutes? I'm assuming everybody has. Is there any objection to those minutes? Seeing no objections they are accepted as written.

#### **CONSIDER APPROVAL OF THE DRAFT ADDENDUM II FOR PUBLIC COMMENT**

CHAIRMAN KELIHER: I went a little bit out of order, Item Number 4 is Consider Approval of the Draft Addendum II for public comment; and Megan is going to go over that document.

MS. MEGAN WARE: With some mood music.

CHAIRMAN KELIHER: I asked for that.

MS. WARE: Today I'm going to go through Herring Draft Addendum II. Just a reminder on our timeline, the Board initiated this at annual meeting and the PDT developed this document between November and January of this year. Today the Board is going to review this document and consider approving it for public comment.

If it is approved, our public comment period would be March through April of this year and the Board would return in May for reviewing that public comment and potentially taking final action. This addendum was largely in response to results of the 2018 stock assessment, which showed reduced levels of recruitment over the last five years.

While in the terminal year of that assessment the stock was not overfished and overfishing was not occurring. There were still serious concerns about the future health of this stock. As a result, the Board initiated this addendum to consider strengthening the existing spawning protections in Area 1A. In the motion for the addendum the Board recommended that the PDT consider measures, including the GSI trigger value, and the closure period length. Just to review our existing spawning program.

Right now we're focused on Area 1A and there are three closures: We have the Mass/New Hampshire Closure in green, the Western Maine Closure in yellow, and the Eastern Maine Closure in blue. We used samples to forecast the timing of spawning by modeling the relationship between GSI and date.

GSI as a reminder is a calculation of the gonad mass to total body mass. It's a tool that we use to measure herring maturity. The initiation of a spawning closure is determined by a trigger value; so that when GSI is projected to exceed the trigger value a spawning closure is implemented. If there are insufficient samples we use default closure dates.

Spawning closures last for four weeks; but they can be extended by two weeks if samples indicate a significant number of spawning herring. Before I get into a bit more details about the spawning program and TC analysis, I did want to preview the issues that are in this document. There are three issues that this document considers.

The first is the trigger value, so what is the trigger value that we use to initiate a closure. The second is the closure length, so how long do we close for? The third is the reclosure protocol, so do we need to reclose and if so what is the threshold we use to determine when that happens? I wanted to preview these issues for you, because they are all connected.

Depending on what trigger value you chose that may influence how long you have to close for. Depending on how long you close for that may determine whether you need to reclose and at what trigger. Kind of the overall message of this slide is, it's important to think holistically about this addendum and the options in it when the Board reviews the document.

Talking a little more specifically about the trigger value again, that is, the value that we use to see when GSI exceeds it and then implement a spawning closure. Generally, a higher trigger value closes the fishery later and closer to spawning while a lower trigger value closes the fishery earlier; to provide protection to maturing fish.

Our current trigger value is 25, and TC analysis showed that that results in spawning closures that start within a few days of when the population reaches 25 percent spawning. The question that's prompted here is, is initiating a closure when 25 percent of the population is spawning still appropriate? The TC did note that lowering the trigger value would reduce fishery spawning interactions.

You will see options in this document with lower trigger values. However, it is important

to highlight that, when we use a lower trigger value we would implement a closure earlier. You may need a longer closure period to provide protection throughout the spawning season. Again this is getting at how these options are related. If you lower the trigger value, you really need a longer season. Also, lowering the trigger value and then having an earlier closure may shorten the time available to collect spawning samples. Then to talk a little bit about the closure length and our reclosure protocol, so I think the question here is, is the current four-week closure sufficient? Through the TCs analysis they found that in the past three years the Mass/New Hampshire spawning season has lasted 4 weeks, 2.3 weeks, and 4.9 weeks.

But, they noted that there was much greater confidence in the longer seasons due to a higher number of samples in those years. The TC concluded that that four week closure would likely result in frequent use of a reclosure protocol. They noted that longer initial closures would increase protection during spawning; and could simplify the protocol by removing the need for a reclosure.

You'll see in this document there are options for longer spawning closures. But, it is also important to note that a longer closure may increase the chance of multiple areas being closed at once. Now we'll go into the management issues and alternatives. Our first issue again is the trigger value; and we have four options here. Option A is going to be our status quo, so it's a trigger value of 25.

Again, that is closing the fishery when approximately 25 percent of the population is spawning. On the right you can see the default closure dates that are associated with that trigger value. Option B, we are still using a trigger value of 25; so again we're still going to close when approximately 25 percent of the population is spawning, but with additional years of data the TC was able to update those default closure dates.

You'll see it is three days earlier for Western Maine and Massachusetts/New Hampshire. The only change between A and B is the default closure dates. Option C is lowering the trigger value to 23. That would close the fishery when approximately 20 percent of the population is spawning; and you can see by looking at the default closure dates, they are earlier than the ones that we have at the top of the screen.

Then Option D is a lower trigger value of 22. That would close the fishery when approximately 15 percent of the population is spawning. Again, with the default closure dates you can see they are earlier and earlier the further down you go on this slide. Issue 2 is the closure length; so how long are we going to close for.

Option A is status quo, so a four-week initial closure, and then Options B, C, and D are all extensions on that so a five week closure, a six week closure, and an eight week closure. On a future slide I'm going to show how the trigger values and the closure lengths are related. But I did want to note for Option D that eight week initial closure.

The PDT included that because it may be long enough that we don't need a reclosure protocol for any of the trigger values in this document. Then Number 3 is our reclosure protocol. There are two options here. Option A is we keep a reclosure protocol; such that the spawning closure can be extended for two additional weeks.

Then Option B is that there is no reclosure protocol; there is no option to reclose for two additional weeks. Under Option A there are sub-options, and that is related to the threshold at which we would reclose. Hopefully my coloring of the percentages is a reminder to two slides before, and that those percentages look familiar. Option A is status quo; so that is defining our threshold as when 25 percent of more mature herring are found in that sample. That is related to the trigger value of 25.

Sub-Option 2 is a 20 percent; so again that threshold is at the 20 percent or more mature herring, and that is related to a trigger value of 23. Then Sub-Option 3 is 15 percent or more mature herring; and that is related to the trigger value of 22. Again, all of these options are related to one another, and they go back to what trigger value you chose.

Then this is the final slide here. This is Table 2 in the Addendum; and if there is one table to look at, I really recommend that it's this one. This one shows how the different management options are connected. As an example, if we take a trigger value of 23 so that would close when approximately 20 percent of the population is spawning. We can see what the average spawning season lengths are as well as the range of spawning season lengths.

We have an average of 4.3 weeks; but we have seen one as long as 5.7 weeks. This would suggest that when the Board subsequently chooses a closure length, you might want to consider a longer closure length for that trigger value than what you have now, because 4.3 weeks and 5.7 weeks is certainly longer than the four weeks we have now. Hopefully that shows how all the options are connected; and I will take any questions.

CHAIRMAN KELIHER: Ray Kane.

MR. RAYMOND W. KANE: Megan, can you go back to that slide on reclosures? My question is; are the vessels that are actually participating in the fishery landing, and those are the herring that are checked? They take a sample of 100 or 200 fish and check the spawn, or are the small boat vessels still doing the spawn check, you know running out there and grabbing samples, and dissecting right onboard? How is that done?

MS. WARE: I'm going to pass that to Renee; who is our TC Chair.

MS. RENEE ZOBEL: In the past reclosure samples have come from a variety of places and a variety of fisheries. They have been fisheries related, but they also could be fisheries independent, as far as the reclosure is concerned. Does that answer your question, Ray? It's been small boats and big boats. I mean the whiting fishery has been a place where we have taken spawning samples; when there is a closure in 1A, to see if a reclosure is necessary. But we've also taken samples once the fishery is opened back up off of the purse seiners, et cetera.

MR. KANE: Yes thank you. I know in Megan's presentation she talked that a couple years they didn't really have enough samples. I think it was in that 2.3 to 5.9 range. What is the minimum number of samples that we need?

MS. WARE: For the initial reclosure there is a 3-sample requirement to not use the default dates, so to project for the closure using GSI-30 protocol, and then for the reclosure I believe it's just one sample is needed to trigger that reclosure.

CHAIRMAN KELIHER: Are there any additional questions for Megan? Seeing none; we have before us the draft Addendum with no additional comments or questions for Megan. Is there any interest in modification of the draft Addendum, or adding to the draft Addendum? Seeing none; I think a motion would be in order; if the Board is considering advancing this to public comment. Doug Grout.

**MR. DOUGLAS E. GROUT: I would move to approve this addendum for public comment today.**

CHAIRMAN KELIHER: We have a motion on the table, a second, second by Ray Kane. Are there any additional questions or comments, Doug or the seconder? Mr. Pierce.

DR. DAVID PIERCE: After we vote on the addendum, are you going to be entertaining a

motion for a preferred alternative to be brought to hearing; or would you like that motion to be made prior to adopting the addendum for public comment?

CHAIRMAN KELIHER: I think it's at the pleasure of the Board, Dr. Pierce. I have no preference either way. If you have some thoughts on that I think we could probably take that up after we advance this. Are there any additional questions or comments? **Seeing none; are there any objections? Seeing none; the motion carries without objection.** Dr. Pierce, do you have a question?

DR. PIERCE: Yes, I'll offer up a suggested preferred set of alternatives, and Megan can correct me if I'm out of bounds or confusing the way in which these are laid out. But I'm referencing Table 4, some of the options and the consideration in this action. With the Trigger Value being Issue 1, the Closure Length being Issue 2, and the Reclosure being Issue Number 3.

In light of the fact that we're looking at right now, as best we can judge, four years in a row of historical low recruitment. Megan noted that in her presentation; circling in red those low years of recruitment. In light of the fact that we may end up with a National Marine Fisheries Service decision to go with the Council recommended ACL for 2019 and beyond.

I would make a motion that we adopt as a preferred alternative within the addendum, Trigger Value Option D; that's a trigger of 22, Closure length Option D; which is the eight-week closure length, and for Reclosure Option B, the no reclosure protocol. That's my motion, Mr. Chairman for a preferred alternative in the Addendum.

CHAIRMAN KELIHER: We have a motion on the table, is there a second? There is no second to your motion. The motion dies without a second. Is there any other interest from the Board in putting a preferred alternative



forward? Seeing none; we will advance the document to public hearing without a preferred alternative. That will take us to Item Number 5 on the agenda; which is the Advisory Panel Report from Jeff Kaelin. Terry.

MR. TERRY STOCKWELL: Before we move on to the next agenda item, just a question from the Council as to when and how many public hearings are going to be scheduled. The Council is not likely to have major issues; but would like to reserve the opportunity to comment.

CHAIRMAN KELIHER: Let me ask the jurisdictions, the states what they're interest is in holding public hearings. Can I see a show of hands? Maine, New Hampshire, Massachusetts, any states to the south of Massachusetts interested in a public hearing? Seeing none; so Megan if you could work with those states on the timing, and whether we'll need more than one. Does that answer your question, Terry? Thank you very much, for bringing that forward. Toni.

MS. TONI KERNS: Terry, are you asking us to have it overlap with the Council meeting, the public comment period?

MR. STOCKWELL: Not necessarily. There is a Herring Committee meeting being scheduled in either late March or April. It would be an opportunity for the Herring Committee, with our new Commission member to have some discussion, and hopefully provide comments if the Committee so wants to forward them through the Council. Council meeting is mid-April.

CHAIRMAN KELIHER: I'm sure Ritchie White, the newest Council Committee member will be glad to offer comment.

#### **ADVISORY PANEL REPORT**

CHAIRMAN KELIHER: If there are no other comments, I'll move on to Item Number 5, which is the Advisory Panel Report from the AP Chair, Jeff Kaelin.

MR. JEFF KAELIN: Good morning members of the Board. I'm Jeff Kaelin with Lund's Fisheries, I'm the AP Chair. I was going to let Megan run with this; but she's asked me to do it. The other thing I'll say, there also is a Federal Herring AP meeting, too, at the same time as that Committee meeting, so there could be an opportunity for that AP to review this.

I don't know if there will be an AP meeting on this addendum that we just approved or not. Well I appreciate the opportunity for the AP to have met. On January 3, the postponed motion that was considered is in three places; it's on the meeting overview, it's in the January 11 memo, which is our report, and you'll see it in a minute on the Advisory Panel report here too, on the first slide. I won't bother reading that.

I think everybody knows why this meeting was held. It says that we did meet by conference call; the members of the AP are listed here. I also know that Commissioner Kane was on the phone with us and Deirdre Boelke, who is the New England Council's FMP coordinator, also listened in. The staff reviewed the existing quota period options in Amendment 3, and the postponed motion from October 2019, and then the quota periods that were selected by the Board for 2019.

Three AP members did not support the motion; stating that the Board already has flexibility in setting the Area 1A quota periods, which has resulted in decreased access for midwater trawls in 2019. Board overstepping its reach in the management of a federal species was a concern. Already enough flexibility in Amendment 3, additional regulations would be burdensome on the industry.

No clear reason why this action is being considered; given the fishery can meet its goals under Amendment 3. A new addendum would complicate management of the species; increasing the regulatory burden on the fishermen, and ultimately decrease flexibility in the fishery. Three AP members did support the

motion; although they commented their support was weak. The comments ranged from supporting additional flexibility in Area 1A, particularly when facing low quotas, because the fishery shouldn't be locked into a single management regime. It is important herring are caught when demand is highest. Another comment that they supported the concept of flexibility; but would like to see data on herring catches to understand impacts on the various gear types during the period of the fishery.

There was some support for the motion; stating it would be stronger if there was a clear explanation as to why the action is being considered, and also looking for data to analyze relative to landings data from multiple bait species. I think that AP member was beginning to consider the need for projections on menhaden productivity; given the fact that the herring productivity is going to be very low in the following years.

In the next slide one AP member wasn't in favor of additional regulations; but did recommend a quota period where 80 percent is allocated June to September, and 20 between October and December, a specific recommendation. I think the only one we had, and one AP member didn't feel the data necessary to make a recommendation was available, but did note the importance of spreading herring landings throughout the year.

Another member abstained from saying whether he supported the motion; but commented that Atlantic herring is a federal fishery with federal permit holders who could be negatively impacted by the motion. That gives you an idea of what people thought of the motion in the AP, and then we did get into comments on the 2019 quota period.

I believe the Board made a decision on this at the annual meeting. Several AP members expressed concern about that decision to use bi-monthly quota periods in the 2019 fishery, and concerned the decision was made without

landings data, so the impact of the changes wasn't evaluated. There was a statement that members of the AP would have liked an opportunity for AP input; that has come and gone, obviously.

Access to the fishery by midwater trawls was negatively impacted by that decision; and the Massachusetts lobster fleet, it was stated by an AP member, relies on bait caught by the trawlers in the fall, so changes of the quota periods have broader impacts than may have been considered.

Under the bi-monthly approach the fishery could close every other month; which could create chaos, and the '18 and '19 quota periods are reflected on the slide. I think that is what we went through, Mr. Chairman. Thanks to Megan, for helping me put together the report; and I'm happy to answer any questions the Board might have.

CHAIRMAN KELIHER: Thank you Jeff, I appreciate that. It's a very thorough report; it sounds like you guys had a great discussion. Are there any questions for Mr. Kaelin? We'll start off with Dr. Pierce.

DR. PIERCE: Jeff, right at the end of your presentation you highlighted one AP member commenting that the Massachusetts lobster fleet relies on bait caught by midwater trawlers in the fall months, so changes to the quota periods have broader impacts on other fisheries. At the meeting was there any discussion of herring being caught on Georges Bank being adequate enough to account for what might not be available with the shifting quota in Area 1A seasonally? In other words, would that offshore fishery for sea herring meet the needs of the Mass lobster fleet; assuming that was discussed at the Advisory meeting?

MR. KAELIN: Well, I think the comment was really relative to the splitting of the 1A quota. It didn't really get into whether the Georges fishery would be available to provide bait or

not. I don't think anybody really understands what happened to the herring; maybe they're in Canada that's where the Calanus went. I don't really know.

We're out looking. I know the fleet is out looking now in Area 2 and Area 3 for fish. It's not a great time to go to Area 3; but you can sneak out there if the weather is good, and people are trying to look for herring and mackerel right now. Who knows, David? That didn't specifically come up, but we didn't get into Georges productivity in the AP meeting.

CHAIRMAN KELIHER: Justin Davis.

MR. JUSTIN DAVIS: It seemed like a theme in some of the AP member comments was that they wanted to see more data; more information about herring catches and certain other topics, in order to have a more informed opinion about the potential impacts of greater flexibility.

My question is; if the Board did decide today to take up the postponed motion and approve it, and initiate an addendum. Would there be an opportunity for the PDT and the AP to have some back and forth; and kind of so the PDT could get a little bit of information about what types of information the Advisory Panel members would like to see in the addendum document?

MR. KAELIN: Well that's a great question; and I think if the Board approved moving ahead with the motion and the addendum, and asked the PDT to do that. I'm sure that could be done. I think the AP would probably appreciate that. It would give you a little better idea of what the impacts would be on the various fleets involved.

**CONSIDER THE POSTPONED MOTION FROM  
THE OCTOBER 2018 MEETING**

CHAIRMAN KELIHER: Are there any additional questions for Mr. Kaelin? Seeing none; I think that conversation is a good segue into Item

Number 6, which is Consider the Postponed Motion from the October, 2018 meeting. I won't read the entire motion; but if it passed it would have initiated an addendum, which considers providing the Atlantic Herring Board greater flexibility to set annual quota period specifications for the 1A fishery. Ritchie, you've got your hand up. Go ahead.

MR. G. RITCHIE WHITE: This is my motion originally; and after talking to a number of Board members, and also discussions with Megan about trying to better define what I was trying to accomplish. I have the sense now that let's let this lower quota run through the system this coming year.

Then see how that unfolds, and if it will be necessary to implement more flexibility, which I still kind of feel we'll need. But exactly what that kind of flexibility should be, I'm uncertain. I guess my sense is to let this sit for a year and let's come back to it next year; after we've seen what we do with an extremely low quota.

CHAIRMAN KELIHER: Process wise, Ritchie, the motion belongs to the Board. Is this something you would like to make a motion on in regards to postponement?

MR. WHITE: I would; as long as there is no other discussion. I didn't want to immediately do that if someone else wanted to discuss it.

CHAIRMAN KELIHER: On that note are there any additional comments in regard to Mr. White's suggestion? Eric Reid.

MR. ERIC REID: I appreciate Ritchie rethinking his original motion. We don't even know what the specs are going to be for this year. The difference between National Marine Fisheries Service and the New England Council is a pretty substantial difference in Year 1 and Year 2. We don't really even know what we're dealing with yet.

I appreciate the forethought in not dealing with this. I just think we should just take this and vote it up or down. With the maker of the motion not supporting his own motion at this time, I think it would be cleaner if we just voted it up or down and then revisit it, as opposed to tabling it to some time we don't even know when that's going to be.

CHAIRMAN KELIHER: We can go in both directions; a motion to table indefinitely. You could let it die on the table, or cleaner just to kill it outright. I'll take one more question from Mr. Stockwell.

MR. STOCKWELL: I guess my question is; and I do appreciate the ongoing discussion, what exactly does greater flexibility mean? As we continue our collaboration between the Council and the Commission process, their additional measures could effectively shut out some of the segments of the Federal fisheries in complicating raising issues with MSA and National Standard Guidelines. I think the go-slow approach is the better and more prudent at this point; particularly given Eric's comments about the soon to be extremely low specifications for next year.

CHAIRMAN KELIHER: Thanks for that Terry, I think based on Ritchie's comments, I think the idea that we've even defined flexibility is not clear. Is there any interest in moving this Addendum forward, from around the table? Seeing none; I'll look to Mr. White for a motion, since it is his motion, to determine the path forward.

MR. WHITE: Is the correct motion to table indefinitely? That's what I will move on this motion.

CHAIRMAN KELIHER: **We have a motion on the floor to table indefinitely. The motion on the floor is to table indefinitely; which would allow the motion to actually just die on the table, if it wasn't taken back up at a later date. We have a second by Mr. Kane. We have a motion on**

**the floor by Mr. White, seconded by Mr. Kane; which is move to table indefinitely. Do we have any questions or comments on the motion? Seeing none; is there any objection to the motion? Seeing none; the motion carries.**

**SET THE SUB-ACL SPECIFICATIONS FOR THE 2019 FISHING YEAR**

CHAIRMAN KELIHER: This brings us to Item Number 7 on the agenda; which is to set the sub-ACL specifications for the 2019 fishing year, and unless somebody runs through the door in the next ten seconds, I would say we don't have it. Alison, can I put you on the spot to just update the Board on what you know, what you told me earlier?

MS. ALISON MURPHY: I touched base with folks back in my office early this morning; and the Final Rule will not file today and become public. I think we're still very hopeful that it will file and publish sometime this week. Knock on wood there can be a discussion maybe later in the week or as the Chairman sees fit to consider what is in the Final Rule.

CHAIRMAN KELIHER: Thank you, Alison for that update. I think there are a couple paths forward here. One would be to hold off on any decisions and table until the Policy Board to address this at the end of the week; with hopes that we would have new numbers. Then if we did not have numbers by then, likely conduct just an e-mail vote on the specifications to have the Commission accept them. Mr. Grout.

MR. DOUGLAS E. GROUT: **I would like to move to postpone final action on Atlantic herring specifications until the Policy Board on Thursday if NOAA Fisheries provides the final rule.**

CHAIRMAN KELIHER: Got a motion on the table, seconded by Mr. Train. Are there any additional comments from the maker? She's typing that up. We'll give her a second to get that up on the board. The motion is Move to

postpone final action on Atlantic herring specifications until the Policy Board on Thursday if NOAA Fisheries provides the final rule. It was a motion by Mr. Grout; seconded by Mr. Train. Are there any questions or comments on the motion? Adam.

MR. ADAM NOWALSKY: Just process-wise I'm trying to understand. Are we as a Board essentially giving the Policy Board the authority to take action on this; by virtue of this motion, and does that then say that for any spec setting to any Board that the Policy Board could supersede that decision moving forward? I'm just trying to understand what authority we're ceding to the Policy Board in this action. I'm not opposed to the concept of delaying a decision. I understand the importance of the Final Rule. But I think we should be clear what this Board may be ceding.

CHAIRMAN KELIHER: I'll turn it over to the Executive Director to comment.

EXECUTIVE DIRECTOR ROBERT E. BEAL: Adam, it's a great question. Essentially the short answer is yes. The Herring Board is delegating authority to the Policy Board to make the final specs. But I think the precedence is something that makes me a little less concerned in that we ended up in this spot because we had this lengthy Federal shutdown.

We are sort of not operating under normal timelines and circumstances. The specs would have been available for this Board a number of weeks ago; and everything would have worked out easily. But I think this action is being considered because of the unique situation here. I don't think it will apply across the Board for all other specifications down the road, necessarily.

CHAIRMAN KELIHER: Mr. Grout.

MR. GROUT: Just a follow up for clarification. This motion applies to one issue; this particular issue. It's not succeeding our authority to the

Policy Board for any other issues; it's just because of this unique situation that has happened due to the shutdown. I'm hoping that we can postpone; and maybe make our work more efficient by actually doing our work here, as opposed to having to do it by an e-mail vote.

CHAIRMAN KELIHER: Adam, does that satisfy your curiosity?

MR. NOWALSKY: Again, I think it's just important that we have clear on the record what we're doing here; so we know what we can do on Thursday, and what we might do on similar situations in the future.

CHAIRMAN KELIHER: I think the comments by Mr. Beal and Mr. Grout certainly make it clear that this is really a unique situation caused by the Federal shutdown; and I'll hold additional comments in regard to the Federal shutdown until the hospitality suite later this evening. With that we have a motion on the board. Are there any other questions in regard to the motion? Seeing none; I'll read it into the record. Oh, Eric.

MR. REID: Is this specific to 1A, or is this for the whole fishery?

MS. WARE: It's for the whole fishery, so it's the Sub-ACLs for the different management areas.

MR. REID: Only because in the bullet points it references 1A, it doesn't say anything about 2 and 3. I appreciate that.

CHAIRMAN KELIHER: Okay are you all set, Eric? Okay. Any additional questions, seeing none; I'll read into the record the motion. **Move to postpone final action on Atlantic herring specifications until Policy Board on Thursday if NOAA Fisheries provides the final rule; motion by Mr. Grout, seconded by Mr. Train. Is there any opposition to this motion? Seeing no opposition the motion carries.** This will move us. Dr. Pierce.

DR. PIERCE: Just a quick point. Let's assume for a moment that the National Marine Fisheries Service stands with its initial call, which was not to go with the New England Council's decision about what the ACL should be. The Council went with a lower number. NOAA has indicated, at least earlier on in the preliminary discussions and published material that they're going to go with a higher number.

It will be a bit of an interesting situation that if indeed we find out that they're going with a higher number, then I'm assuming the Policy Board would support that higher number. Therefore, ASMFC supports a higher number than the New England Council. It just creates a strange and opposite point of view that I wouldn't support; but we would have no option but to do so, except to be stubborn about it and create complications by going with the lower number that is the New England Council's number. I just wanted to highlight that. I'm hopeful that the New England Council's position after further consideration by NOAA that they'll go with what New England said was the appropriate set of numbers.

CHAIRMAN KELIHER: Eric Reid.

MR. REID: I would like to point out that the National Marine Fisheries Service number in Year 1 is substantially higher than the New England Councils. In Year 2 it is substantially lower. I think the number is 12,000 tons. It's a double-edged sword. New England's is more of an – average isn't the right word – but it's more of an average. National Marine Fisheries Service is substantially higher and substantially lower; which is a little problematic for me. I don't know how that's going to affect our decision. I guess we've got to see what the Final Rule is. That is my one cent.

CHAIRMAN KELIHER: I'm sure both of those comments I think will highlight some additional conversations will happen at the Policy Board, instead of a strict rubber stamp. If there are no additional comments, seeing none;

### **UPDATE ON DRAFT ADDENDUM III AND THE NEW ENGLAND FISHERY MANAGEMENT COUNCIL 2019 PRIORITIES**

CHAIRMAN KELIHER: We'll move on to Item Number 8, which is Update on Draft Addendum III and the New England Fishery Management Council 2019 Priorities. Megan.

MS. WARE: This is just an update; and a reminder that at annual meeting this Board did initiate Addendum III, which is to consider spawning protections for Area 3. Also at annual meeting this Board voted to send a letter to the New England Council; asking that the Council add spawning protections in Georges Bank to their 2019 priorities.

As an update to that letter, at their December meeting the Council did add a priority to consider spawning closures in Georges Bank for 2019; so that was added to their priority list. Given this action, I think at staff level the hope is to work cooperatively to identify what data is available for this action, and to explore potential paths forward to consider spawning protections in Georges Bank.

CHAIRMAN KELIHER: Thanks for that quick update, Megan. Ritchie.

MR. WHITE: Megan, and then possibly Terry. What is the best-case scenario timeline by which the Council could have spawning protection in place?

MS. WARE: I don't have an exact answer for you. But in talking with Council staff, my impression is that their work on this would likely start, or they are going to first focus on 2020-2021 specifications, and then work on this Georges Bank protection. That is their plan for the year. I don't have a date for when they would take an action on it or implement it.

MR. WHITE: Follow up. Thank you. Then I guess a question for Terry would be. If the Council decides to go forward with an action;

how long might that take? My concern being that we could have substantial fishing on spawned fish for at least two years. I'm not sure that that kind of timing is what we need to protect herring at this point.

CHAIRMAN KELIHER: Mr. Stockwell.

MR. STOCKWELL: It's not if the Council is going to proceed with this work plan, it's when. As Megan reported, the Council did add this as a 2019 work priority; but the Council's current plan is to focus on the 2020-2021 specs first. This body is about to vote on the 2019 specs. As most everyone knows there is going to be another stock assessment in 2020, so the Council needs to put forward a second-year plan.

Short answer to you, once we get the white paper how complicated do the two bodies want to make this? If the Commission and the Council want to make it very complicated spawning closures, it is going to take longer. If the two bodies can agree upon something sooner than later that is more simplified, I would project it would go out the latter part of 2020.

MR. WHITE: Additional follow up, Mr. Chairman if I may.

CHAIRMAN KELIHER: Sure, go ahead.

MR. WHITE: I appreciate your indulgence. This time schedule really concerns me with the state that we find ourselves with herring. It may be that doing everything we can to have a good year class as soon as possible may make the difference to restoring this stock in a timely manner. I'm certainly not looking for this body to take things on that the Council can do.

We've got plenty of work ahead of us, and I'm not looking for additional work. On the other hand, we can act quickly and nimbly. I just throw out an idea. Would it make any sense for us to try to implement something interim; so that we're not doing the Council's work, but can

we protect some spawning, some spawn herring in the interim faster, while this work is being done?

I believe we have the ability to protect spawned herring from a landing standpoint, not a fishing standpoint. Does it make any sense for us to try to have something in place for the 2020 season? We could even do it quickly for the end of 2019 season that would restrict landing of spawned herring from Area 3. I kind of throw that out as a question and see what other people think.

CHAIRMAN KELIHER: I understand where you're going with this. I certainly would like to hear comments from the Board. I would also say, I think the protections in '19, '20, and '21, are going to be based on the incredibly low quotas that we'll be fishing on. Based on that my feeling is; that while I think it would be important to ensure that we get something developed jointly between both bodies that because of the low quotas, I feel like we've got time to do that and going through the process.

I would hate to get into a situation where, we moved in the direction of turning this into a Board to ensure we had continuity with the Council and the Council with the Commission. I think we need to give that process, I personally believe we need to give that process time to work out. I think the low quotas over the next couple of years will do that. With that said; are there any additional questions or comments? Dr. Pierce.

DR. PIERCE: I agree with the Chair's perspective. In addition, I'm waiting for the discussion document that has been referenced in our reading materials. That discussion document is in progress I understand. In addition, as noted in our material for this meeting, the Plan Development Team has also begun investigating available data on Georges Bank spawning outside of state collected samples. The PDT still has work to do; the discussion document still needs to be brought

before us. As indicated, this is more complicated than it might seem at first. I certainly support protection of Georges Bank spawn herring; I always have. But 2019 is impractical.

Now if we found out that the Council for whatever reason, the Council of which I am part, is unable to do anything for 2020. Then that puts more of a burden on us; that is this Board, to consider action that would be as you indicated, Ritchie, a bit of kind of an interim action. But by then we would have the discussion document.

By then we would have a lot more information to use as a basis for doing something in 2020. I'm confident that the Council will move this forward relatively quickly; in light of the status of the stock, and of course the overall ACL. I hear what you're saying. I think 2019 really would not work; but I think 2020 is ripe for further ASMFC discussions on what to do.

CHAIRMAN KELIHER: Mr. Stockwell.

MR. STOCKWELL: I appreciate your concerns and comments. They essentially echo the position that I was ready to advocate for. I would like to add that in addition to the extremely low quotas, the likely implementation of the 12-mile buffer, which will add further protection south of the Cape. The question I have is what is the Commission's plan for the research money that was allocated; and how could this inform our collaborative process in the next year?

CHAIRMAN KELIHER: I don't believe we've made final decisions on the research money; but I'll pass it to Bob.

EXECUTIVE DIRECTOR BEAL: You're correct. We haven't made final plans. But the way I envisioned this is that the Working Group, the joint Council Commission, and Technical Folks that are working on the white paper or discussion document, whatever we're calling it.

I think that is all part of that discussion; you know what data is available, what data is still needed?

Once we determine what data is still needed, they can decide what the best way to use that money. The good news is we don't have to spend that money in the next six or eight months. We've got about two years to spend that; so we've got plenty of time to use that money as wisely as possible, but it is all part of the same preliminary discussion that's happening now, the way I see it anyway.

CHAIRMAN KELIHER: Is that satisfactory, Terry? I would put one more item on the table as well. ACCSP dollars that have been funding monitoring in regards to herring, there is talk about tightening up and reallocating some of those dollars. I know the research set-aside dollars that are going to be much less that is funding the sampling in the Commonwealth will be lower.

We do have some additional challenges when it comes to sampling, if in fact we get to a point where we need to collect samples from spawning with the low quotas. Ali, sorry I should have been looking farther down the table.

MS. MURPHY: I appreciate your comments; as well as Mr. Stockwell's. We would be supportive of these two bodies working together to collaborate on this issue going forward.

CHAIRMAN KELIHER: To Dr. Pierce's tenor, we cooperate until we can't cooperate any more. Is that where you were going with that Dr. Pierce? Are there any additional comments on this item? Justin.

MR. DAVIS: Just a quick question. The discussion we're having here is about spawning closures on Georges Bank. Is that exclusive of the Nantucket Shoals spawning area, and if so, is it just because there is not enough available



information to even think about spawning closures on Nantucket Shoals?

(Whereupon the meeting adjourned at 10:00 o'clock a.m. on February 5, 2019)

MS. WARE: The Council priority, and Terry correct me if I'm wrong, was focused on Georges Bank. The Commission Addendum was Area 3. There is a bit of a difference there that we will have to reconcile between the two bodies as we start to work on this document. But we do have a lack of data on Nantucket Shoals; that is true.

CHAIRMAN KELIHER: Dr. Pierce.

DR. PIERCE: I hadn't thought about that but it's true. But I suspect when we get deeper in discussions about protection of spawning on Georges Bank, the link between Nantucket Shoals and Georges Bank will become quite obvious. As a matter of fact, the scientific perspective, U.S. perspective is the Georges Bank we built after it had collapsed in the 1970s, and the early '80s that we built because of spawning on Nantucket Shoals that seeded the Georges Bank area.

That is the prevailing scientific opinion. There is a linkage there that has to be respected. I suspect that once our discussion document is completed, and once we have more discussions, you know with the Council staff. The connection will be obvious; and there will be no other option but to pursue an approach that would deal with the fishing in the Nantucket Shoals area right adjacent to Georges Bank, I mean they're connected. That is what I foresee.

CHAIRMAN KELIHER: Are there any additional comments? Seeing none; that was our last agenda item.

#### **ADJOURNMENT**

CHAIRMAN KELIHER: One more call for any additional business to be brought up to the Herring Board. Seeing none; a motion would be in order to adjourn. I didn't hear one, but motion to adjourn is accepted, thank you. Thanks everybody!